

Draft provisions for Finance Bill

CONTENTS

PART 1

DIRECT TAXES

Income tax: employment income

- 1 Optional remuneration arrangements: arrangements for cars and vans
- 2 Exemption for benefit in form of vehicle-battery charging at workplace
- 3 Exemptions relating to emergency vehicles
- 4 Exemption for expenses related to travel
- 5 Beneficiaries of tax-exempt employer-provided pension benefits

Corporation tax and CGT: territorial scope

- 6 Disposals of assets by non-UK residents and payments on account etc
- 7 Non-UK resident companies carrying on UK property businesses etc

Corporation tax: losses and interest

- 8 Corporation tax relief for carried-forward losses
- 9 Corporate interest restriction

Profit fragmentation

- 10 Avoidance involving profit fragmentation arrangements

Oil activities and petroleum revenue tax

- 11 Oil activities: transferable tax history
- 12 Petroleum revenue tax: post-transfer decommissioning expenditure

Leases

- 13 Leases

Miscellaneous reliefs

- 14 Rent-a-room: non-exclusive residence

- 15 Entrepreneurs' relief: company ceasing to be individual's personal company
- 16 Gift aid: restrictions on associated benefits

PART 2

OTHER TAXES

Value added tax

- 17 VAT treatment of vouchers
- 18 VAT groups: eligibility

Stamp duties

- 19 Stamp duty: exemption for financial institutions in resolution
- 20 SDLT: exemption for financial institutions in resolution
- 21 SDLT: changes to periods for delivering returns and paying tax

Environmental taxes

- 22 Climate change levy: exemption for mineralogical and metallurgical processes

Vehicle duties

- 23 Vehicle excise duty: taxis capable of zero emissions
- 24 HGV road user levy and vehicle excise duty

Gaming duty

- 25 Gaming duty: accounting periods
- 26 Gaming duty: removal of obligation to make payments on account
- 27 Gaming duty: transitional provision

Other taxes and duties

- 28 Tobacco for heating
- 29 Excise duty on mid-strength cider

PART 3

ADMINISTRATION AND ENFORCEMENT

Penalties and interest

- 30 Penalties for failure to make returns and deliberately withholding information
- 31 Penalties for failure to pay tax
- 32 Repayment interest: VAT

Time limits for assessments etc

- 33 Time limits for assessments involving offshore matters: IT and CGT
- 34 Time limits for proceedings involving offshore matters: IHT

Payment

- 35 Security deposits: construction industry scheme and corporation tax

PART 4

EU AND INTERNATIONAL

- 36 Payment of CGT exit charges
 37 ATAD: corporation tax exit charges
 38 ATAD: hybrid and other mismatches
 39 Resolution of double taxation disputes
 40 International tax enforcement: disclosable arrangements

-
- Schedule 1 – Chargeable gains accruing to non-residents etc
 Part 1 – Extending cases in which non-residents are charged to tax etc
 Part 2 – Consequential amendments
 Part 3 – Commencement and transitional provisions etc
 Schedule 2 – Returns for disposals of land etc
 Part 1 – Returns and payments on account: disposals of land etc
 Part 2 – Notification of chargeable amounts, amendments of returns, enquiries etc
 Part 3 – Consequential amendments
 Schedule 3 – Non-UK resident companies carrying on UK property businesses etc
 Part 1 – Extension of scope of charge
 Part 2 – Supplementary & Consequential amendments
 Part 3 – Commencement and transitional provisions
 Schedule 4 – Corporation tax relief for carried-forward losses
 Schedule 5 – Corporate interest restriction
 Schedule 6 – Avoidance involving profit fragmentation arrangements
 Schedule 7 – Oil activities: transferable tax history
 Part 1 – Election to transfer tax history
 Part 2 – The total TTH amount
 Part 3 – Effect of a TTH election on the seller
 Part 4 – Effect of a TTH election on the purchaser
 Part 5 – TTH Activation
 Part 6 – Allocation of activated TTH amount
 Part 7 – Supplementary charge: recalculation of adjusted ring fence profits
 Part 8 – TTH elections: conditions and procedure
 Part 9 – TTH elections: approval
 Part 10 – TTH elections: effective date and withdrawal
 Part 11 – TTH elections: inaccuracies
 Part 12 – Chargeable gains
 Part 13 – Supplementary
 Part 14 – Interpretation
 Schedule 8 – Leases
 Part 1 – Finance leases: amendments as a result of changes to accounting standards
 Part 2 – Long funding leases

- Part 3 – Changes to accounting standards and tax adjustments
- Schedule 9 – VAT treatment of vouchers
- Schedule 10 – VAT groups: eligibility
 - Part 1 – Eligibility of individuals and partnerships
 - Part 2 – Consequential amendments
- Schedule 11 – Penalties for failure to make returns etc
 - Part 1 – Introduction
 - Part 2 – Liability to a penalty
 - Part 3 – Supplementary provision
- Schedule 12 – Penalties for deliberately withholding information
 - Part 1 – Introduction
 - Part 2 – Liability to a penalty
 - Part 3 – Supplementary provision
- Schedule 13 – Penalties for failure to pay tax
 - Part 1 – Introduction
 - Part 2 – Liability to a penalty
 - Part 3 – Supplementary provision
- Schedule 14 – Repayment interest: VAT
- Schedule 15 – Payment of CGT exit charges
- Schedule 16 – ATAD: corporation tax exit charges
 - Part 1 – CT exit charge payment plans
 - Part 2 – Repeal of certain postponement provisions
 - Part 3 – Treatment of assets subject to EU exit charges

PART 1

DIRECT TAXES

Income tax: employment income

1 Optional remuneration arrangements: arrangements for cars and vans

- (1) ITEPA 2003 is amended as follows.
- (2) In section 120A (optional remuneration arrangements: benefit of a car) –
 - (a) in subsection (3)(b), for the words from “the amount” to “year is” substitute “the total foregone amount in connection with the car for the tax year is”, and
 - (b) after subsection (3) insert –
 - “(4) In this section, and in section 121A, the total foregone amount in connection with the car for a tax year is the total of –
 - (a) the amount foregone (see section 69B) with respect to the benefit of the car for that year, and
 - (b) the amount foregone (see section 69B) with respect to each other benefit that –
 - (i) is connected with the car,
 - (ii) is provided in that year for the employee, or a member of the employee’s household, pursuant to optional remuneration arrangements, and
 - (iii) is neither the provision of a driver nor the provision of fuel.”
- (3) In section 121A (optional remuneration arrangements: method of calculating relevant amount) –
 - (a) in subsection (1), for step 1 substitute –

Step 1

Take the total foregone amount in connection with the car for the tax year (see section 120A(4)).”, and
 - (b) in subsection (2) –
 - (i) for ““amount foregone” under” substitute ““total foregone amount” for the purposes of”, and
 - (ii) for “the benefit of the car” substitute “a benefit mentioned in section 120A(4)(a) or (b)”.
- (4) In section 132A (capital contributions by employee: optional remuneration arrangements) –
 - (a) for subsection (3) substitute –
 - “(3) The amount of the deduction allowed in any tax year is found by –
 - (a) first multiplying the capped amount by the appropriate percentage, and

- (b) then multiplying the result by the availability factor.”,
and
- (b) after subsection (4) insert –
- “(4A) For the purposes of subsection (3), “the availability factor” is given by the formula –

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

where –

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

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

- (4B) For the purposes of subsection (4A), the car is unavailable on any day if the day –
- (a) falls before the first day on which the car is available to the employee,
 - (b) falls after the last day on which the car is available to the employee, or
 - (c) falls within a period of 30 days or more throughout which the car is not available to the employee.”
- (5) In section 154A (optional remuneration arrangements: benefit of a van) –
- (a) in subsection (2)(b), for the words from “the amount” to “section 69B)” substitute “the total foregone amount in connection with the van”,
 - (b) in subsection (3), for step 1 substitute –

“Step 1
Take the total foregone amount in connection with the van for the tax year.”,
 - (c) in subsection (7), for “the benefit of the van” substitute “a benefit mentioned in subsection (8)(a) or (b)”, and
 - (d) after subsection (7) insert –

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

 - (a) the amount foregone (see section 69B) with respect to the benefit of the van for that year, and
 - (b) the amount foregone (see section 69B) with respect to each other benefit that –
 - (i) is connected with the van,
 - (ii) is provided in that year for the employee, or a member of the employee’s household, pursuant to optional remuneration arrangements, and
 - (iii) is neither the provision of a driver nor the provision of fuel.”
- (6) In section 239 (exemptions for payments and benefits relating to taxable cars, vans and exempt HGVs), in subsection (3) –
- (a) after “by virtue of” insert “section 120A (optional remuneration arrangements: benefit of a car)”, and

- (b) before “or section 160” insert “, section 154A (optional remuneration arrangements: benefit of a van)”.
- (7) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.

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

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

“237A Vehicle-battery charging

- (1) No liability to income tax arises in respect of the provision, at or near an employee’s workplace, of facilities for charging a battery of a vehicle used by the employee (including a vehicle used by the employee as a passenger).
- (2) Subsection (1) applies only if the facilities are made available generally to the employer’s employees at that workplace.
- (3) In this section –
 - “facilities” –
 - (a) includes electricity, but
 - (b) does not include workplace parking,
 - “taxable”, in relation to a car or van, has the meaning given by section 239(6),
 - “vehicle” means a vehicle –
 - (a) to which Chapter 2 applies (see section 235), and
 - (b) which is neither a taxable car nor a taxable van, and
 - “workplace parking” has the meaning given by section 237(3).”
- (2) The amendment made by subsection (1) has effect for the tax year 2018-19 and subsequent tax years.

3 Exemptions relating to emergency vehicles

- (1) Section 248A of ITEPA 2003 (emergency vehicles) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1) –
 - (a) in paragraph (a), for “for the person’s private use” substitute “mainly for use for the person’s business travel”;
 - (b) in paragraph (b), omit “engaged in on-call”.
- (3) In subsection (8) –
 - (a) in the opening words, omit “engaged in on-call”;
 - (b) in paragraph (a), for “it” substitute “the vehicle”;
 - (c) omit paragraph (b) (and the “and” before it).
- (4) In section 205 of ITEPA 2003 (cost of the benefit: asset made available without transfer), after subsection (4) insert –
 - “(5) Where the asset is an emergency vehicle, the expense of providing fuel for it in a tax year is not an additional expense by virtue of subsection (4) so long as –

- (a) the person incurring that expense incurs no expense in that tax year in the provision of fuel for the vehicle which is used for the employee's private travel ("private fuel expense"), or
 - (b) all private fuel expense that the person does incur in that tax year is made good by the employee on or before 6 July following the tax year.
- (6) For the purposes of this section –
- "emergency vehicle" has the same meaning as in section 248A;
 - "fuel" includes electrical energy;
 - "private travel" means travelling the expenses of which, if incurred and paid by the employee, would not be deductible under Chapter 2 or 5 of Part 5."
- (5) The amendments made by subsections (1) to (4) have effect for the tax year 2017-18 and subsequent tax years.
- (6) For the tax year 2017-18, the tax year 2018-19 and the tax year 2019-20, sections 205 and 205A of ITEPA 2003 (taxable benefits: assets made available without transfer) have effect, where the asset mentioned in section 205(1)(a) is an emergency vehicle, with the modifications in subsections (7) and (8).
- (7) Section 205(1C) has effect as if –
- (a) in paragraph (a), at the beginning, there were inserted "the private use proportion of";
 - (b) after paragraph (b), and on a new line, there were inserted –
"The private use proportion is the proportion (by miles) of travel by the employee by the emergency vehicle in the tax year that is private travel."
- (8) Section 205A(2) has effect as if paragraphs (c) and (d) were omitted.
- (9) For the purposes of subsection (6), "emergency vehicle" has the same meaning as in section 248A of ITEPA 2003.

4 Exemption for expenses related to travel

- (1) Section 289A of ITEPA 2003 (exemption for paid or reimbursed expenses) is amended as follows.
- (2) After subsection (2) insert –
- "(2A) No liability to income tax arises in respect of an amount paid or reimbursed by a person ("the payer") to an employee (whether or not an employee of the payer) for expenses in the course of qualifying travel if –
- (a) the amount has been calculated and paid or reimbursed in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs,
 - (b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements, and
 - (c) condition C is met."
- (3) After subsection (4) insert –
- "(4A) Condition C is that –

- (a) the payer or another person operates a system for checking that the employee has undertaken the qualifying travel in relation to which the amount is paid or reimbursed, and
 - (b) neither the payer nor any other person operating the system knows or suspects, or could reasonably be expected to know or suspect, that the travel was not undertaken.”
- (4) In subsection (5) –
 - (a) for ““Relevant” substitute “In this section “relevant”, and
 - (b) before “in respect of” insert “for or”.
- (5) After subsection (5) insert –

“(5A) In this section “qualifying travel” means travel for which a deduction from the employee’s earnings would be allowed under Chapter 2 or 5 of Part 5.”
- (6) In subsection (6), for “this section” substitute “subsection (2)”.
- (7) In subsection (7), after “subsection” insert “(2A)(a) or”.
- (8) After subsection (7) insert –

“(8) Regulations made under subsection (2A)(a) may contain provision about calculating amounts that is framed by reference to rates (for expenses) published from time to time by the Commissioners for Her Majesty’s Revenue and Customs.”
- (9) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.
- (10) For the tax year 2019-20 and subsequent tax years, the Income Tax (Approved Expenses) Regulations 2015 (S.I. 2015/1948) –
 - (a) have effect as if made under section 289A(2A)(a) of ITEPA 2003 (and may be revoked, or amended, accordingly), and
 - (b) have effect as if in regulation 2(1) –
 - (i) the reference to section 289A of ITEPA 2003 were to section 289A(2A)(a) of that Act,
 - (ii) for the words “in an approved way” there were substituted “in accordance with these regulations”, and
 - (iii) the words “purchased by the employee” were omitted.

5 Beneficiaries of tax-exempt employer-provided pension benefits

- (1) In section 307(2) of ITEPA 2003 (“death or retirement benefit” is a benefit for employee or others on employee’s retirement or death), for “or a member of the employee’s family or household” substitute “, or paid or given in respect of the employee to any other individual or to a charity,”.
- (2) The amendment made by subsection (1) has effect for the tax year 2019-20 and subsequent tax years.

*Corporation tax and CGT: territorial scope***6 Disposals of assets by non-UK residents and payments on account etc**

- (1) Schedule 1 amends the law relating to the taxation of chargeable gains so as to—
 - (a) extend the cases in which gains accruing to persons not resident in the United Kingdom are chargeable to tax,
 - (b) abolish the specific charge to tax on ATED-related chargeable gains, and
 - (c) provide that gains accruing to companies are chargeable only to corporation tax.
- (2) That Schedule—
 - (a) makes those amendments in a new Part 1 of TCGA 1992,
 - (b) repeals other provisions contained in the previous version of that Part or in Part 2 of that Act and restates their effect in rewritten form (whether in the new Part 1 or elsewhere), and
 - (c) makes provision that relates to, or is otherwise connected with, the matters mentioned in subsection (1) or this subsection.
- (3) Schedule 2 makes provision—
 - (a) requiring returns and payments on account to be made, for the purposes of capital gains tax and corporation tax, in respect of any direct or indirect disposal of an interest in land in the United Kingdom—
 - (i) by a person not resident in the United Kingdom, or
 - (ii) by a person in the overseas part of a tax year, and
 - (b) requiring returns and payments on account to be made, for the purposes of capital gains tax, in respect of any disposal on which a residential property gain accrues where the disposal is—
 - (i) by a person resident in the United Kingdom, or
 - (ii) by a person not resident in the United Kingdom of an asset connected to the person's branch or agency.

7 Non-UK resident companies carrying on UK property businesses etc

Schedule 3 contains provision for non-UK resident companies to be chargeable to corporation tax on—

- (a) profits of UK property businesses, and
- (b) profits consisting of other UK property income.

*Corporation tax: losses and interest***8 Corporation tax relief for carried-forward losses**

Schedule 4 makes provision about corporation tax relief for losses and other amounts that are carried forward.

9 Corporate interest restriction

Schedule 5 contains provision amending Part 10 of TIOPA 2010 (corporate interest restriction).

Profit fragmentation

10 Avoidance involving profit fragmentation arrangements

Schedule 6 contains provision about profit fragmentation arrangements.

Oil activities and petroleum revenue tax

11 Oil activities: transferable tax history

Schedule 7 makes provision about elections to transfer tax history, for certain purposes of the Corporation Tax Acts, on the sale of an interest in a UK oil licence.

12 Petroleum revenue tax: post-transfer decommissioning expenditure

- (1) Schedule 3 to OTA 1975 (petroleum revenue tax: miscellaneous provisions) is amended in accordance with this section.
- (2) After paragraph 11 insert –

“Transfers of interests in oil fields: post-transfer decommissioning expenditure

11A (1) This paragraph applies if –

- (a) there is, for the purposes of Schedule 17 to FA 1980, a transfer by a participator in an oil field of the whole or part of an interest in the field, and
 - (b) on or after 1 November 2018, the OGA gives consent for the transfer.
- (2) Paragraph 8(1) (certain subsidised expenditure to be disregarded) does not apply to any decommissioning expenditure for which the new participator is liable that has been, or is to be, met directly or indirectly out of a payment made by the old participator (and any such expenditure is not to be regarded for any purpose of this Act as being incurred by any person other than the new participator).
 - (3) Sub-paragraph (4) applies if, at the end of the transfer period, the old participator is no longer a licensee in respect of any licensed area wholly or partly included in the oil field.
 - (4) Decommissioning expenditure that is incurred by the old participator, after the end of the transfer period, is to be treated for the purposes of this Act as having been incurred by the new participator (and paragraph 8(1) does not apply to any such expenditure).
 - (5) If the old participator has transferred the whole or part of another interest in the oil field to the new participator, but the condition in sub-paragraph (1)(b) was not met in respect of the transfer,

references in sub-paragraphs (2) and (4) to decommissioning expenditure are references to such proportion of that expenditure as is just and reasonable.

(6) In this paragraph –

- (a) “decommissioning expenditure” means expenditure incurred, in relation to the oil field mentioned in sub-paragraph (1)(a), for a purpose within section 3(1)(i) or (j) (decommissioning or restoration);
- (b) “the old participator”, “the new participator” and “the transfer period” have the same meaning as in Schedule 17 to FA 1980 (see paragraph 1(3) of that Schedule).”

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

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

Leases

13 Leases

Schedule 8 contains provision relating to the taxation of leases.

Miscellaneous reliefs

14 Rent-a-room: non-exclusive residence

- (1) Section 786 of ITTOIA 2005 (meaning of “rent-a-room receipts”) is amended as follows.
- (2) In subsection (1), before the “and” at the end of paragraph (c) insert –
 - “(ca) the use to which the receipts relate is physical use of the furnished accommodation that overlaps in time (wholly or partly) with the use of the residence as sleeping accommodation by the individual or a member of the individual’s household.”
- (3) After subsection (7) insert –
 - “(8) The reference in subsection (1)(ca) to a member of the individual’s household does not include a person who is a member of that household only by reason of being an occupier under a letting, an employee or both.”
- (4) The amendments made by this section have effect for the tax year 2019-20 and subsequent tax years.

15 Entrepreneurs’ relief: company ceasing to be individual’s personal company

- (1) In Part 5 of TCGA 1992 (transfers of business assets), after Chapter 3

(entrepreneurs' relief) insert –

“CHAPTER 3A

ENTREPRENEURS' RELIEF WHERE COMPANY CEASES TO BE INDIVIDUAL'S PERSONAL COMPANY

169SB Overview of Chapter

This Chapter makes provision about an individual claiming entrepreneurs' relief in certain cases where relief would otherwise become unavailable because of a company ceasing to be the individual's personal company.

169SC Election by individual where company ceases to be personal company

- (1) If the following conditions are met, an individual may elect for this section to have effect.
- (2) The first condition is that, as a result of a relevant share issue, the company ceases to be the individual's personal company.
- (3) The second condition is that –
 - (a) if the individual had made a disposal immediately before the relevant share issue of all assets consisting of (or of interests in) shares in or securities of the company, the disposal would have been a material disposal of business assets, and
 - (b) if a claim for entrepreneurs' relief had been made in respect of that disposal, a chargeable gain would have been treated by section 169N(2) as accruing to the individual.
- (4) Where this section has effect, the individual is to be treated for the purposes of this Act –
 - (a) as having made a disposal immediately before the relevant share issue of all assets consisting of (or of interests in) shares in or securities of the company, and
 - (b) immediately after that event, as having reacquired those assets, at their relevant value.
- (5) The relevant value is –
 - (a) in relation to an asset consisting of (or of interests in) shares, an amount equal to the consideration that would be apportioned to the asset if, immediately before the relevant share issue, the whole of the issued share capital of the company were sold for a consideration equal to its market value at that time, or
 - (b) in relation to any other asset, its market value at the time of the relevant share issue.
- (6) “Relevant share issue” means an issue of shares by the company where –
 - (a) the shares are issued by the company for consideration consisting wholly of cash, and
 - (b) the shares are subscribed, and issued, for genuine commercial reasons and not as part of arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage to any person.

- (7) In subsection (6) –
 “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
 “tax advantage” means –
 (a) relief or increased relief from tax,
 (b) repayment or increased repayment of tax,
 (c) the avoidance or reduction of a charge to tax or an assessment to tax, or
 (d) the avoidance of a possible assessment to tax,
 and for the purposes of this definition “tax” means capital gains tax, corporation tax or income tax.
- (8) In this section “material disposal of business assets” and “personal company” have the same meanings as in Chapter 3 (see section 169S).
- (9) In this Chapter –
 (a) references to “the notional disposal” are references to the disposal mentioned in subsection (4)(a), and
 (b) references to “the notional gain” are references to the chargeable gain mentioned in subsection (3)(b).

169SD Supplementary election to defer gains until subsequent disposal

- (1) An individual who makes an election under section 169SC may also elect that, for the purposes of this Act –
 (a) no chargeable gain or allowable loss is to be treated as accruing to the individual on the notional disposal, but
 (b) a chargeable gain calculated in accordance with this section is to be treated as accruing to the individual on any subsequent disposal by the individual of one or more assets consisting of (or of interests in) shares in or securities of the company (in addition to any gain or loss that actually accrues on that disposal).
- (2) The chargeable gain treated as accruing to the individual on a subsequent disposal is the amount resulting from the following steps –

Step 1

Attribute the notional gain to each of the classes of shares in or securities of the company which are (or interests in which are) the subject of the notional disposal. The attribution must be made, in relation to each class, by reference to the proportion that –

- (a) the relevant gains (see section 169N(5)) accruing on the notional disposal in respect of (or in respect of interests in) shares or securities within each class bears to
 (b) the total amount of relevant gains accruing on the notional disposal.

Step 2

Apportion the amount attributed to each class under Step 1 to so many of the shares or securities of that class as are (or interests in which are) the subject of the subsequent disposal. The apportionment must be by reference to the proportion that –

- (a) the number of the shares or securities of that class which are (or interests in which are) the subject of the subsequent disposal bears to
- (b) the number of shares or securities of that class which are (or interests in which are) the subject of the notional disposal.

Step 3

The amount resulting from these steps is –

- (a) the total of the amounts apportioned to shares or securities under Step 2, but
 - (b) excluding, in relation to each class of shares or securities, so much of those amounts as would, together with any chargeable gains treated by this section as accruing on previous disposals of (or of interests in) shares or securities of that class, exceed the amount attributed to that class under Step 1.
- (3) If the subsequent disposal is a disposal by virtue of section 122, the number of shares or securities of a particular class which are (or interests in which are) the subject of that disposal is to be treated for the purposes of Step 2 of subsection (2) as being equal to the number of shares or securities of that class as are (or interests in which are) the subject of the notional disposal.
 - (4) Subsections (5) and (6) have effect if it is necessary to find an amount resulting from the steps in subsection (2) in relation to the subsequent disposal of (or of interests in) shares forming part of a new holding following a reorganisation.
 - (5) If the new holding consists of more than one class of shares, the amount attributed to the class of the original shares under Step 1 in subsection (2) must be attributed to the classes of shares forming the new holding by reference to market value on the first day (whether that day fell before the reorganisation took effect or later) on which market values or prices were quoted or published for the shares forming the new holding.
 - (6) For the purposes of Step 2 in subsection (2), the extent to which a number of shares forming part of the new holding corresponds to a number of original shares must be determined by reference to the market value for the shares forming part of the new holding on that day compared with the market value for the original shares on the same day.
 - (7) In subsections (4) to (6) “reorganisation”, “new holding” and “original shares” have the same meanings as in sections 126 to 131 (see section 126).

169SE Elections under sections 169SC and 169SD

- (1) An election under section 169SC or 169SD is irrevocable.
- (2) An election under section 169SC must be made on or before the first anniversary of the 31 January following the tax year in which the notional disposal is made (“the relevant tax year”).
- (3) An election under section 169SD may not be made more than 4 years after the end of the relevant tax year.

- (4) If—
- (a) an individual makes an election under both sections 169SC and 169SD, and
 - (b) a tax return under the Management Act would not otherwise be required for the relevant tax year,
- the individual may make the elections by giving notice on or before the first anniversary of the 31 January following the relevant tax year.

169SF Claims for relief in respect of subsequent disposals

- (1) Where, as a result of an election under section 169SD, a chargeable gain is to be treated as accruing on a subsequent disposal, the following rules have effect.
 - (2) The individual making the subsequent disposal must make a claim for entrepreneurs' relief on or before the first anniversary of the 31 January following the first tax year in which, as a result of the election, the chargeable gain is to be treated as accruing.
 - (3) The chargeable gain is to be treated for the purposes of section 169N as the amount resulting from a calculation under subsection (1) of that section carried out when that chargeable gain accrues and because of the claim mentioned in subsection (2).
 - (4) If the chargeable gain is a part only of the notional gain, each chargeable gain that subsequently accrues is to be treated for the purposes of section 169N as the amount resulting from a calculation under subsection (1) of that section carried out when that chargeable gain arises and because of the claim mentioned in subsection (2).
 - (5) In relation to the claim for entrepreneurs' relief in respect of the chargeable gain, the company is to be treated for the purposes of condition A in section 169I(6) as if it were, throughout the period of 1 year ending with the date of the subsequent disposal, the individual's personal company."
- (2) The amendment made by this section has effect in relation to relevant share issues (within the meaning given by section 169SC(4) of TCGA 1992) which take place on or after 6 April 2019.

16 Gift aid: restrictions on associated benefits

- (1) In section 418 of ITA 2007 (gifts to charities by individuals: restrictions on associated benefits) in subsection (2) (the variable limit) for paragraphs (a) to (c) substitute—
 - “(a) in a case where the amount of the gift is £100 or less, 25% of that amount, and
 - (b) in a case where the amount of the gift exceeds £100, the sum of £25 and 5% of the amount of the excess.”
- (2) The amendment made by subsection (1) has effect in relation to gifts made on or after 6 April 2019.
- (3) In section 197 of CTA 2010 (payments to charities by companies: restrictions on associated benefits) in subsection (2) (the variable limit) for paragraphs (a) to

- (c) substitute—
- “(a) in a case where the amount of the payment is £100 or less, 25% of that amount, and
 - (b) in a case where the amount of the payment exceeds £100, the sum of £25 and 5% of the amount of the excess.”
- (4) The amendment made by subsection (3) has effect in relation to payments made on or after 6 April 2019.

PART 2

OTHER TAXES

Value added tax

17 VAT treatment of vouchers

Schedule 9 makes provision about the VAT treatment of vouchers.

18 VAT groups: eligibility

- (1) Schedule 10 contains provision about the eligibility of individuals and partnerships to be treated as members of a group for the purposes of value added tax.
- (2) That Schedule comes into force on such day as the Treasury may by regulations appoint.

Stamp duties

19 Stamp duty: exemption for financial institutions in resolution

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

“Resolution of financial institutions

85A Resolution of financial institutions

- (1) Stamp duty is not chargeable on a qualifying transfer of stock or marketable securities.
- (2) A qualifying transfer of stock or marketable securities is a transfer which—
 - (a) is made by or under an instrument listed in subsection (3), and
 - (b) would (apart from this section) be chargeable to stamp duty at the rate in paragraph 3 of Schedule 13 to the Finance Act 1999.
- (3) The instruments are—
 - (a) a mandatory reduction instrument made in accordance with section 6B of the Banking Act 2009 (mandatory write-down, conversion etc of capital instruments),
 - (b) a share transfer instrument or property transfer instrument made in accordance with section 12(2) of that Act (transfer to a bridge bank),

- (c) a property transfer instrument made in accordance with section 12ZA(3) of that Act (transfer to asset management vehicle),
 - (d) a resolution instrument made in accordance with section 12A of that Act (bail-in),
 - (e) a share transfer order made in accordance with section 13(2) of that Act (temporary public ownership: share transfer),
 - (f) a supplemental share transfer instrument made in accordance with section 26 of that Act, where the original instrument was made in accordance with section 12(2) of that Act,
 - (g) a supplemental share transfer order made in accordance with section 27 of that Act,
 - (h) a property transfer instrument made in accordance with section 41A(2) of that Act (transfer of property subsequent to resolution instrument),
 - (i) a supplemental property transfer instrument made in accordance with section 42(2) of that Act where the original instrument was made in accordance with section 12(2), 12ZA(3) or 41A(2) of that Act,
 - (j) a bridge bank supplemental property transfer instrument made in accordance with section 44D(2) of that Act,
 - (k) a property transfer order made in accordance with section 45(2) of that Act (temporary public ownership: property transfer),
 - (l) a supplemental resolution instrument made in accordance with section 48U(2) of that Act, or
 - (m) an order under section 85 of that Act (temporary public ownership: building societies).
- (4) References in subsection (3) to a provision of the Banking Act 2009 include references to that provision as applied by or under any other provision of that Act (including where it is applied with modifications or in a substituted form).”
- (2) The amendment made by this section has effect in relation to instruments –
- (a) within section 85A(3) of FA 1986, or
 - (b) made under an instrument within section 85A(3) of FA 1986,
- which are executed on or after the day on which this Act is passed.

20 SDLT: exemption for financial institutions in resolution

- (1) In FA 2003, after section 66 insert –
- “66A Resolution of financial institutions**
- (1) A land transaction is exempt from charge if it is effected by or under –
- (a) a property transfer instrument made in accordance with section 12(2) of the Banking Act 2009 (transfer to a bridge bank),
 - (b) a property transfer instrument made in accordance with section 12ZA(3) of that Act (transfer to asset management vehicle),
 - (c) a supplemental property transfer instrument made in accordance with section 42(2) of that Act where the original instrument was made in accordance with section 12(2), 12ZA(3) or 41A(2) of that Act,

- (d) a property transfer instrument made in accordance with section 41A(2) of that Act (transfer of property subsequent to resolution instrument),
 - (e) a bridge bank supplemental property transfer instrument made in accordance with section 44D(2) of that Act, or
 - (f) a property transfer order made in accordance with section 45(2) of that Act (temporary public ownership: property transfer).
- (2) References in subsection (1) to a provision of the Banking Act 2009 include references to that provision as applied by or under any other provision of that Act (including where it is applied with modifications or in a substituted form).”
- (2) The amendment made by this section has effect in relation to any land transaction the effective date of which is on or after the day on which this Act is passed.

21 SDLT: changes to periods for delivering returns and paying tax

- (1) FA 2003 is amended as follows.
- (2) In section 76(1) (duty to deliver land transaction return), for “30 days” substitute “14 days”.
- (3) For section 80(2) (adjustment where contingency ceases or consideration is ascertained) substitute—
- “(2) If the effect of the new information is that a transaction becomes notifiable, the purchaser must make a return to the Inland Revenue within 14 days.
 - (2A) If the effect of the new information is that—
 - (a) tax is payable in respect of a transaction where none was payable before and subsection (2) does not apply, or
 - (b) additional tax is payable in respect of a transaction,the purchaser must make a further return to the Inland Revenue within 30 days.
 - (2B) For the purposes of subsections (2) and (2A), any tax or additional tax payable is calculated according to the effective date of the transaction.
 - (2C) If a purchaser is required to make a return under subsection (2) or a further return under subsection (2A)—
 - (a) that return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return, and
 - (b) the tax or additional tax payable must be paid not later than the filing date for that return.”
- (4) In section 81 (further return where relief withdrawn)—
- (a) in subsection (1B)—
 - (i) after paragraph (c) insert—
 - “(ca) in the case of relief under paragraph 5CA of that Schedule (acquisition under a regulated home reversion plan), the first day in the period mentioned in paragraph 5IA(2) of that Schedule

- on which the purchaser holds the higher threshold interest otherwise than for the purposes of the regulated home reversion plan, unless paragraph 5IA(3)(a) and (b) applies;”, and
- (ii) after paragraph (d) insert –
- “(da) in the case of relief under paragraph 5EA of that Schedule (acquisition by management company of flat for occupation by caretaker), the first day in the period mentioned in paragraph 5JA(2) of that Schedule on which the purchaser holds the higher threshold interest otherwise than for the purpose of making the flat available for use as caretaker accommodation;”, and
- (b) in subsection (2A), after “subsection (1)” insert “or (1A)”.
- (5) For section 81A(1) (return or further return in consequence of later linked transaction) substitute –
- “(1) Where the effect of a transaction (“the later transaction”) that is linked to an earlier transaction is that the earlier transaction becomes notifiable, the purchaser under the earlier transaction must deliver a return in respect of that transaction before the end of the period of 14 days after the effective date of the later transaction.
- (1A) Where the effect of a transaction (“the later transaction”) that is linked to an earlier transaction is that –
- (a) tax is payable in respect of the earlier transaction where none was payable before and subsection (1) does not apply, or
- (b) additional tax is payable in respect of the earlier transaction, the purchaser under the earlier transaction must deliver a further return in respect of that transaction before the end of the period of 30 days after the effective date of the later transaction.
- (1B) For the purposes of subsections (1) and (1A), any tax or additional tax payable is calculated according to the effective date of the earlier transaction.
- (1C) Where a purchaser is required to deliver a return under subsection (1) or a further return under subsection (1A) –
- (a) that return must include a self-assessment of the amount of tax chargeable as a result of the later transaction, and
- (b) the tax or additional tax payable must be paid not later than the filing date for that return.”
- (6) In section 86(2) (payment of tax), before paragraph (a) insert –
- “(za) any of paragraphs 5G to 5K of Schedule 4A (higher rate for certain transactions),”.
- (7) In section 87 (interest on unpaid tax) –
- (a) after subsection (1) insert –
- “(1A) But where the relevant date is determined by subsection (3)(aa), (aaa), (ab) or (c), and a return is required to be delivered before the end of the period of 14 days after that relevant date, interest is instead payable on the amount of any unpaid tax from the end of that period until the tax is paid.”,

- (b) in subsection (2), after “subsection (1)” insert “or (1A)”, and
 - (c) in subsection (3), before paragraph (a) insert –
 - “(za) in the case of an amount payable because relief is withdrawn under any of paragraphs 5G to 5K of Schedule 4A (higher rate for certain transactions), the date which is the relevant date for the purposes of section 81(1A);”.
- (8) In Schedule 17A (further provisions relating to leases) –
- (a) for paragraph 3(3) substitute –
 - “(3) Where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of one year after the end of a fixed term is that a transaction becomes notifiable, the purchaser must deliver a return in respect of that transaction before the end of the period of 14 days after the end of that one year period.
 - (3ZA) Where the effect of sub-paragraph (2) in relation to the continuation of the lease for a period (or further period) of one year after the end of a fixed term is that –
 - (a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or
 - (b) additional tax is payable in respect of a transaction, the purchaser must deliver a further return in respect of that transaction before the end of the period of 30 days after the end of that one year period.
 - (3ZB) For the purposes of sub-paragraphs (3) and (3ZA), any tax or additional tax payable is calculated according to the effective date of the transaction.
 - (3ZC) Where a purchaser is required to deliver a return under sub-paragraph (3) or a further return under sub-paragraph (3ZA) –
 - (a) that return must include a self-assessment of the amount of tax chargeable in respect of the transaction on the basis of the information contained in the return, and
 - (b) the tax or additional tax payable must be paid not later than the filing date for that return.”,
 - (b) for paragraph 4(3) substitute –
 - “(3) Where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that a transaction becomes notifiable, the purchaser must deliver a return in respect of that transaction before the end of the period of 14 days after the end of that term.
 - (3A) Where the effect of sub-paragraph (1) in relation to the continuation of the lease after the end of a deemed fixed term is that –
 - (a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or

-
- (b) additional tax is payable in respect of a transaction, the purchaser must deliver a further return in respect of that transaction before the end of the period of 30 days after the end of that term.
- (3B) For the purposes of sub-paragraphs (3) and (3A), any tax or additional tax payable is calculated according to the effective date of the transaction.
- (3C) Where a purchaser is required to deliver a return under sub-paragraph (3) or a further return under sub-paragraph (3A) –
- (a) that return must include a self-assessment of the amount of tax chargeable in respect of the transaction on the basis of the information contained in the return, and
 - (b) the tax or additional tax payable must be paid not later than the filing date for that return.”, and
- (c) for paragraph 8(3) substitute –
- “(3) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that a transaction becomes notifiable, the purchaser must make a return to the Inland Revenue within 14 days of the date referred to in sub-paragraph (1)(a) or (b).
- (3A) If the result as regards the rent paid or payable in respect of the first five years of the term of the lease is that –
- (a) tax is payable in respect of a transaction where none was payable before and sub-paragraph (3) does not apply, or
 - (b) additional tax is payable in respect of a transaction, the purchaser must make a further return to the Inland Revenue within 30 days of the date referred to in sub-paragraph (1)(a) or (b).
- (3B) If a purchaser is required to make a return under sub-paragraph (3) or a further return under sub-paragraph (3A) –
- (a) that return must contain a self-assessment of the tax chargeable in respect of the transaction on the basis of the information contained in the return,
 - (b) the tax so chargeable is to be calculated by reference to the rates in force at the effective date of the transaction, and
 - (c) the tax or additional tax payable must be paid not later than the filing date for that return.”
- (9) The amendments made by this section are to be treated as having effect in relation to –
- (a) any land transaction with an effective date on or after 1 March 2019, and
 - (b) any land transaction with an effective date before 1 March 2019 which becomes notifiable on or after 1 March 2019.

Environmental taxes

22 Climate change levy: exemption for mineralogical and metallurgical processes

- (1) Paragraph 12A of Schedule 6 to FA 2000 (exemption: mineralogical and metallurgical processes) is amended as follows.
- (2) In sub-paragraph (1) –
 - (a) omit “to a person”, and
 - (b) omit “by the person”.
- (3) In sub-paragraph (2), for the words from “has the same meaning” to the end substitute “means a process falling within Division 23 of NACE Rev 2.”
- (4) In sub-paragraph (4), the words after paragraph (c) become sub-paragraph (4A).
- (5) In that sub-paragraph, for “sub-paragraph” substitute “paragraph”.

Vehicle duties

23 Vehicle excise duty: taxis capable of zero emissions

- (1) Part 1AA of Schedule 1 to VERA 1994 (annual rates of duty: light passenger vehicles first registered on or after 1 April 2017) is amended as follows.
- (2) In paragraph 1GE (higher rates for vehicles with price above £40,000), after sub-paragraph (4) insert –
 - “(5) Sub-paragraphs (2) and (4) do not apply to a vehicle if when it is first registered, whether that is under this Act or under the law of a country or territory outside the United Kingdom, it is a taxi capable of zero emissions (see paragraph 1GG).”
- (3) After paragraph 1GF insert –

“Meaning of “taxi capable of zero emissions”

- 1GG(1) The Secretary of State may by regulations make provision about the meaning of “taxi capable of zero emissions” in paragraph 1GE.
- (2) In the following provisions of this paragraph “regulations” means regulations under sub-paragraph (1).
- (3) Regulations may (in particular) make provision of any one or more of the following kinds –
 - (a) that a vehicle is a taxi capable of zero emissions if the vehicle is of a description specified in regulations;
 - (b) that a vehicle is at any particular time a taxi capable of zero emissions if the vehicle is of a model specified at that time in a list maintained by the Secretary of State;
 - (c) that a vehicle is a taxi capable of zero emissions if conditions specified in regulations are met.
- (4) Where regulations make provision of the kind mentioned in sub-paragraph (3)(b) –

- (a) regulations may (in particular) provide that a model of vehicle may be specified in the list only if it appears to the Secretary of State that vehicles of that model are of a description specified in regulations;
 - (b) regulations must provide for publication of the list;
 - (c) regulations may allow a model of vehicle to be included in the list with backdated effect.
- (5) A description of a kind mentioned in sub-paragraph (3)(a) or (4)(a) may be framed (in particular) by reference to a scheme, or an instrument or other document, as it has effect from time to time.
- (6) Regulations made before 1 April 2020 that do not increase the amount of vehicle excise duty for which any person is liable may have effect in relation to vehicle licences taken out at times before the regulations come into force (including times before the regulations are made).”
- (4) The amendments made by this section have effect in relation to licences taken out on or after 1 April 2019.
- (5) The new paragraph 1GE(5) has effect, in the case of a vehicle first registered in the two years beginning with 1 April 2017, as if the reference to when the vehicle is first registered were to the start of the first period beginning on or after 1 April 2019 for which a vehicle licence for the vehicle is taken out.

24 HGV road user levy and vehicle excise duty

- (1) The HGV Road User Levy Act 2013 is amended in accordance with subsections (2) to (6).
- (2) In section 5(5) (payment of levy for UK heavy goods vehicles) for “in Schedule 1” substitute “or Table 1A in Schedule 1 (depending on which of those Tables applies to the vehicle)”.
- (3) In section 6(4) (payment of levy for non-UK heavy goods vehicles) for “in Schedule 1” substitute “or Table 1A in Schedule 1 (depending on which of those Tables applies to the vehicle)”.
- (4) In section 7 (rebate of levy), after subsection (2) insert –
- “(2A) A rebate entitlement also arises where –
- (a) HGV road user levy has been paid in respect of a vehicle at the rate applicable to a vehicle that does not meet Euro 6 emissions standards, and
 - (b) the vehicle becomes a vehicle that meets those standards.”
- (5) In section 19 (interpretation) –
- (a) in subsection (3) –
 - (i) in paragraph (b), for “under section 7” substitute “as a result of an entitlement arising under section 7(2)”, and
 - (ii) after paragraph (b) insert –
 - “(c) where a person receives a rebate of levy in respect of a vehicle as a result of an entitlement arising under section 7(2A), the person is treated as not having paid levy in respect of the vehicle for the period starting with the first day of the

month after the month in which the application for a rebate was made and ending with the end of the levy period.”, and

(b) after subsection (3), insert –

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

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

(a) for paragraph 1 substitute –

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

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

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

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

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

(c) for Table 1 substitute –

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

<i>Band</i>	<i>Daily rate</i>	<i>Weekly rate</i>	<i>Monthly rate</i>	<i>Half-yearly rate</i>	<i>Yearly rate</i>
A	£1.53	£3.83	£7.65	£45.90	£76.50
B	£1.89	£4.73	£9.45	£56.70	£94.50
C	£4.32	£10.80	£21.60	£129.60	£216.00
D	£6.30	£15.75	£31.50	£189.00	£315.00
E	£9.00	£28.80	£57.60	£345.60	£576.00
F	£9.00	£36.45	£72.90	£437.40	£729.00
G	£9.00	£45.00	£90.00	£540.00	£900.00
B(T)	£2.43	£6.08	£12.15	£72.90	£121.50
C(T)	£5.58	£13.95	£27.90	£167.40	£279.00
D(T)	£8.10	£20.25	£40.50	£243.00	£405.00
E(T)	£9.00	£37.35	£74.70	£448.20	£747.00

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

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

- (7) The HGV Road User Levy (Rate for Prescribed Vehicles) Regulations 2018 (S.I. 2018/417) are revoked.
- (8) In section 19 of the Vehicle Excise and Registration Act 1994 (rebates) –
- (a) in subsection (3), after paragraph (g) insert –
 - “(h) a relevant application for a vehicle licence for the vehicle has been received by the Secretary of State.”,
 - (b) after subsection (3ZA) insert –
 - “(3ZB) An application for a vehicle licence is a relevant application for the purposes of subsection (3)(h) if –
 - (a) there is an unexpired licence for the vehicle in respect of which the application is made,
 - (b) when the unexpired licence was taken out, the vehicle was chargeable to HGV road user levy under section 5 of the HGV Road User Levy Act 2013 at a rate applicable to a vehicle that does not meet Euro 6 emissions standards, and
 - (c) the vehicle now meets those standards, and an application for a rebate of HGV road user levy has been made under section 7 of that Act as a result of an entitlement arising under subsection (2A) of that section.”,
 - (c) in subsection (7), after “rebate conditions” insert “(other than the condition in subsection (3)(h))”, and

- (d) after subsection (7) insert—
- “(7A) Where the rebate condition in subsection (3)(h) is satisfied in relation to a licence, the licence ceases to be in force immediately before the first day of the period for which the relevant person is treated as not having paid levy in respect of the vehicle as a result of section 19(3)(c) of the HGV Road User Levy Act 2013.”
- (9) The amendments and revocation made by subsections (1) to (7) are to be treated as having effect in relation to HGV road user levy that—
- (a) becomes due on or after 1 February 2019, and
- (b) is paid on or after that date.
- (10) The amendments made by subsection (8) are to be treated as having effect in relation to licences taken out on or after 1 February 2019.

Gaming duty

25 Gaming duty: accounting periods

- (1) FA 1997 is amended as follows.
- (2) Section 11 (rate of gaming duty) is amended in accordance with subsections (3) to (5).
- (3) In subsection (2) for “subsection (3)” substitute “subsections (3), (4A) and (4B)”.
- (4) After subsection (4), insert—

“(4A) Where the gaming duty provisions of this Act have effect in relation to any premises as if accounting periods were periods longer or shorter than six months (“alternative accounting periods”) as a result of—

(a) a direction under paragraph 9(1A) of Schedule 1, or

(b) a direction or agreement under paragraph 9(1C) of Schedule 1,

then for the purposes of determining the amount of gaming duty which is to be charged on those premises for that period, the Table in subsection (2) is modified in accordance with subsection (4B).

- (4B) Each amount specified in column 1 of the Table is multiplied by—

$$\frac{A}{B}$$

where—

A is the number of days in the alternative accounting period directed or agreed, and

B is the number of days in the period that would have been the accounting period in the absence of any direction or agreement (or where the alternative accounting period spans more than one such period, the first of those periods).”

- (5) For subsection (10) substitute—
- “(10) In subsection (8) above the banker’s profits from any gaming are—
- (a) the value, in money or money’s worth, of the stakes staked with the banker in any such gaming, less

- (b) the value of the prizes provided by the banker to those taking part in such gaming otherwise than on behalf of a provider of the premises.
- (10ZA) Where the gross gaming yield from any premises in an accounting period is a negative amount (“amount X”)—
- (a) the gross gaming yield for those premises in that accounting period is treated as nil, and
 - (b) amount X may be carried forward in reduction of the gross gaming yield for those premises for one or more later accounting periods.”
- (6) In paragraph 9 of Schedule 1 (accounting periods)—
- (a) for sub-paragraph (1) substitute—
 - “(1) Where the Commissioners and every relevant person so agree, the gaming duty provisions of this Act shall have effect in relation to any premises as if accounting periods for the purposes of those provisions were the periods specified in the agreement, which may be—
 - (a) periods of six months (beginning on any date);
 - (b) periods (beginning on any date) which are longer or shorter than six months, but which must be the approximate equivalent of periods of six months in weeks.
- (1A) If the Commissioners have reason to believe that the liability in relation to any premises may not be discharged as it falls due from time to time, the Commissioners may direct that periods shorter than six months are to be treated as accounting periods for the purposes of the gaming duty provisions of this Act.
- (1B) The Commissioners may direct in relation to any premises that periods beginning on dates other than 1st April and 1st October are to be treated as accounting periods for the purposes of the gaming duty provisions of this Act.
- (1C) The Commissioners may by direction or by agreement with every relevant person make transitional arrangements in relation to any premises for periods (whether of six months or otherwise) to be treated as accounting periods for the purposes of the gaming duty provisions of this Act where—
- (a) those premises cease to be specified in an entry on the gaming register for any person, or
 - (b) an agreement under sub-paragraph (1) or a direction under sub-paragraph (1A) or (1B) begins or ceases to have effect.
- (1D) The Commissioners must not enter into an agreement under sub-paragraph (1) or give a direction under sub-paragraph (1B) unless they are satisfied that any transitional arrangements which are appropriate for the protection of the revenue have been agreed or directed.
- (1E) Any direction under this paragraph continues to have effect until it is withdrawn by the Commissioners (unless otherwise specified in the direction).

- (1F) Withdrawal of a direction under this paragraph in relation to any premises does not prevent the giving of further directions in relation to those premises.”
- (b) in sub-paragraph (2), for “sub-paragraph (1) above” substitute “this paragraph”,
- (c) omit sub-paragraphs (3) and (4), and
- (d) for sub-paragraph (5) substitute –
 - “(5) The decisions mentioned in sub-paragraph (6) are to be treated as if they were listed in subsection (2) of section 13A of FA 1994 (customs and excise reviews and appeals: meaning of “relevant decision”) and accordingly are to be treated –
 - (a) as if they were relevant decisions for the purposes mentioned in subsection (1) of that section, and
 - (b) as if they were ancillary matters for the purposes of section 16 FA 1994 (appeals to a tribunal).
 - (6) The decisions are –
 - (a) a decision of the Commissioners to refuse a request for an agreement under sub-paragraph (1) or (1C), or to refuse a request for such an agreement on particular terms,
 - (b) a decision of the Commissioners to give a direction under sub-paragraph (1A), (1B) or (1C), or to give such a direction in particular terms, or
 - (c) a decision of the Commissioners not to give a direction under sub-paragraph (1A), (1B) or (1C).”
- (7) In paragraph 11(2) of Schedule 1 (regulations), after “of this Act” insert “or paragraph 9 of this Schedule”.
- (8) The amendments made by this section come into force on 1 October 2019.

26 Gaming duty: removal of obligation to make payments on account

- (1) In section 12 of FA 1997 (liability to pay gaming duty) omit subsections (4) and (6).
- (2) The Gaming Duty Regulations 1997 (S.I. 1997/2196) are amended in accordance with subsections (3) and (4).
- (3) In regulation 2 (interpretation) omit the definition of “quarter”.
- (4) Omit regulations 3 to 6 (Part II: payments on account) and the heading before them.
- (5) The amendments made by this section come into force on 1 October 2019.

27 Gaming duty: transitional provision

- (1) Where there is an agreement under paragraph 9(1) of Schedule 1 to FA 1997 and as a result the period to be treated as the accounting period for any premises is a period beginning on or before 30 September 2019 and ending after 30 September 2019 (a “paragraph 9(1) accounting period”), subsection (2) applies.

- (b) after paragraph (b) insert –
 - “(ba) [] per hectolitre in the case of cider of a strength of not less than 6.9 per cent but not exceeding 7.5 per cent which is not sparkling cider; and”.

(3) In section 62B (cider labelled as strong cider) –

- (a) in the heading, after “strong cider” insert “or mid-strength cider”,
- (b) in subsection (1) –
 - (i) in the opening words, after “standard cider” insert “or mid-strength cider”,
 - (ii) for paragraph (a) substitute –
 - “(a) is in a container which is up-labelled as a container of strong cider, or”,
 - (iii) in paragraph (b), for “an up-labelled container” substitute “a container which is up-labelled as a container of strong cider”, and
 - (iv) in the words after paragraph (b), after “standard cider” insert “or mid-strength cider”,
- (c) after subsection (1), insert –
 - “(1A) For the purposes of this Act, any liquor which would apart from this section be standard cider and which –
 - (a) is in a container which is up-labelled as a container of mid-strength cider, or
 - (b) has, at any time after 31 January 2019 when it was in the United Kingdom, been in a container which is up-labelled as a container of mid-strength cider,shall be deemed to be mid-strength cider, and not standard cider.”,
- (d) for subsection (2) substitute –
 - “(2) Accordingly, references in this Act to making cider include references to –
 - (a) putting standard or mid-strength cider in a container which is up-labelled as a container of strong cider;
 - (b) causing a container in which there is standard or mid-strength cider to be up-labelled as a container of strong cider;
 - (c) putting standard cider in a container which is up-labelled as a container of mid-strength cider; or
 - (d) causing a container in which there is standard cider to be up-labelled as a container of mid-strength cider.”,
- (e) in subsection (4) –
 - (i) in paragraph (a), for “not exceeding 7.5 per cent” substitute “of less than 6.9 per cent”,
 - (ii) omit the “and” at the end of that paragraph, and
 - (iii) after paragraph (a), insert –
 - “(aa) “mid-strength cider” means cider which is not sparkling and is of a strength of not less than 6.9 per cent but not exceeding 7.5 per cent; and”,
- (f) in subsection (5), in the opening words, after “up-labelled” insert “as a container of strong cider”, and

- (g) after subsection (6), insert—
- “(7) For the purposes of this section a container is up-labelled as a container of mid-strength cider if there is anything on—
- (a) the container itself,
 - (b) a label or leaflet attached to or used with the container, or
 - (c) any packaging used for or in association with the container,
- which states or tends to suggest that the strength of any liquor in that container falls within the mid-strength cider strength range.
- (8) For the purposes of subsection (7), a strength falls within the mid-strength cider strength range if it is not less than 6.9 per cent but does not exceed 7.5 per cent.
- (9) Where liquor is no longer in a container which is an up-labelled container, and it falls within subsection (1)(b) and within subsection (1A)(b), then it is deemed to be cider of the strength range stated or suggested by the labelling for the up-labelled container in which it was first contained.
- (10) For the purposes of subsection (9)—
- (a) an “up-labelled container” means—
 - (i) a container which is up-labelled as a container of strong cider as mentioned in subsection (1)(b), or
 - (ii) a container which is up-labelled as a container of mid-strength cider as mentioned in subsection (1A)(b), and
 - (b) references to the labelling for any container are references to anything on—
 - (i) the container itself,
 - (ii) a label or leaflet attached to or used with the container, or
 - (iii) any packaging used for or in association with the container.”
- (4) The amendments made by this section are to be treated as having come into force on 1 February 2019.

PART 3

ADMINISTRATION AND ENFORCEMENT

Penalties and interest

30 Penalties for failure to make returns and deliberately withholding information

- (1) Schedule 11 contains provision for imposing penalties on persons in respect of failures to make certain returns.

- (2) Schedule 12 contains provision for imposing penalties on persons who, by failing to make certain returns, deliberately withhold information which would enable or assist HMRC to assess that person's liability to tax.
- (3) Schedules 11 and 12 come into force on such day as the Treasury may by regulations appoint.
- (4) Regulations under subsection (3) –
 - (a) may commence a provision generally or for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (5) The Treasury may by regulations make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 11 or 12.
- (6) Regulations under subsection (5) may include provision amending, repealing or revoking any provision of an Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (7) Regulations under subsection (5) may make different provision for different purposes.
- (8) Regulations under this section are to be made by statutory instrument.
- (9) A statutory instrument containing regulations under subsection (5) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

31 Penalties for failure to pay tax

- (1) Schedule 13 contains provision for imposing penalties on persons in respect of failures to make certain payments on time.
- (2) Schedule 13 comes into force on such day as the Treasury may by regulations appoint.
- (3) Regulations under subsection (2) –
 - (a) may commence a provision generally or for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (4) The Treasury may by regulations make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 13.
- (5) Regulations under subsection (4) may include provision amending, repealing or revoking any provision of an Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (6) Regulations under subsection (4) may make different provision for different purposes.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under subsection (4) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

32 Repayment interest: VAT

- (1) Schedule 14 contains amendments of FA 2009 relating to repayment interest and VAT.
- (2) Schedule 14 comes into force on such day as the Treasury may by regulations appoint.
- (3) Regulations under subsection (2) –
 - (a) may commence a provision generally or for specified purposes, and
 - (b) may appoint different days for different provisions or for different purposes.
- (4) The Treasury may by regulations make any incidental, supplemental, consequential, transitional, transitory or saving provision which may appear appropriate in consequence of, or otherwise in connection with, Schedule 14.
- (5) Regulations under subsection (4) may include provision amending, repealing or revoking any provision of an Act or subordinate legislation whenever passed or made (including this Act and any Act amended by it).
- (6) Regulations under subsection (4) may make different provision for different purposes.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) A statutory instrument containing regulations under subsection (4) which includes provision amending or repealing any provision of an Act is subject to annulment in pursuance of a resolution of the House of Commons.

*Time limits for assessments etc***33 Time limits for assessments involving offshore matters: IT and CGT**

- (1) TMA 1970 is amended as follows.
- (2) After section 36 insert –

“36A Loss of tax involving offshore matter or offshore transfer

- (1) This section applies in a case involving a loss of income tax or capital gains tax, where the lost tax involves an offshore matter or an offshore transfer.
- (2) An assessment on a person (“the taxpayer”) may be made at any time not more than 12 years after the end of the year of assessment to which the lost tax relates.
This is subject to section 36(1A) above and any other provision of the Taxes Acts allowing a longer period.
- (3) Lost income tax or capital gains tax “involves an offshore matter” if it is charged on or by reference to –
 - (a) income arising from a source in a territory outside the United Kingdom,
 - (b) assets situated or held in a territory outside the United Kingdom,
 - (c) activities carried on wholly or mainly in a territory outside the United Kingdom, or

- (d) anything having effect as it were income, assets or activities of a kind described above.
- (4) Lost income tax “involves an offshore transfer” if it does not involve an offshore matter and the income on or by reference to which it is charged, or any part of that income, is –
 - (a) received in a territory outside the United Kingdom, or
 - (b) transferred to a territory outside the United Kingdom before the relevant date.
- (5) Lost capital gains tax “involves an offshore transfer” if it does not involve an offshore matter and the proceeds of the disposal on or by reference to which the lost tax is charged are, or any part of the proceeds is –
 - (a) received in a territory outside the United Kingdom, or
 - (b) transferred to a territory outside the United Kingdom before the relevant date.
- (6) In subsections (4) and (5) –
 - references to income or proceeds transferred include references to assets derived from or representing the income or proceeds;
 - “relevant date” means –
 - (a) in a case where the taxpayer (or a person acting on the taxpayer’s behalf) delivered a return under the Taxes Acts to HMRC for the year of assessment to which the lost tax relates and in which information relating to the lost tax was required to be provided, the date on which the return was delivered, and
 - (b) in any other case, 31 January in the year of assessment after that to which the lost tax relates.
- (7) But an assessment may not be made under subsection (2) if –
 - (a) before the time limit that would otherwise apply for making the assessment, an officer of Revenue and Customs received information from overseas by mandatory automatic exchange on the basis of which the officer could reasonably have been expected to be aware of the lost tax, and
 - (b) it was reasonable to expect the assessment to be made before that time limit.
- (8) For the purposes of subsection (7)(a), information is received “from overseas by mandatory automatic exchange” if the information –
 - (a) is received from an authority in a territory outside the United Kingdom, and
 - (b) was provided under any provision of EU law or of an international agreement requiring the automatic exchange of information.

For these purposes “international agreement” means any agreement to which the United Kingdom and the territory concerned are parties, with or without other parties.
- (9) An assessment may also not be made under subsection (2) to the extent that liability to the lost tax arises as a result of an adjustment under Part 4 of TIOPA 2010 (transfer pricing adjustments).

- (10) In this section “assets” has the meaning given in section 21(1) of the 1992 Act, but also includes sterling.
- (11) Section 36(2) to (3A) applies for the purposes of this section.”
- (3) In section 37A (effect of assessment where allowances transferred), after “or (1A)” insert “or 36A”.
- (4) In section 40 (personal representatives), in subsection (1), for “or 36” substitute “, 36 or 36A”.
- (5) The amendments made by this section have effect –
 - (a) in a case involving a loss of tax brought about carelessly by a person, in relation to assessments on the person relating to the 2013-14 year of assessment and subsequent years of assessment, and
 - (b) in any other case, in relation to assessments relating to the 2015-16 year of assessment and subsequent years of assessment.

34 Time limits for proceedings involving offshore matters: IHT

- (1) IHTA 1984 is amended as follows.
- (2) In section 240 (underpayments), in subsection (3), at the end insert “and to section 240B (underpayments involving offshore matter etc).”
- (3) After section 240A insert –

“240B Underpayments involving offshore matters etc

- (1) This section applies in a case within section 240(2) –
 - (a) which involves a loss of tax in relation to a chargeable transfer, and
 - (b) where the lost tax involves an offshore matter or an offshore transfer.
- (2) Proceedings for the recovery of the lost tax may be brought at any time not more than 12 years after the date in section 240(2)(a) and (b).
- (3) Lost tax “involves an offshore matter” if it is charged on or by reference to property which is situated or held in a territory outside the United Kingdom at, or immediately after, the time of the chargeable transfer.
- (4) Lost tax “involves an offshore transfer” if –
 - (a) if does not involve an offshore matter, and
 - (b) the property is transferred to a territory outside the United Kingdom after the chargeable transfer but before the date on which an account under section 216 is delivered to HMRC in relation to the chargeable transfer (or before any later date on which an account under section 217 is so delivered).
- (5) But proceedings may not be brought under this section if –
 - (a) before the last date on which the proceedings could otherwise be brought, an officer of Revenue and Customs received information from overseas by mandatory automatic exchange on the basis of which the officer could reasonably have been expected to be aware of the lost tax, and
 - (b) it was reasonable to expect the proceedings to be brought before that date.

- (6) For the purposes of subsection (5)(a), information is received “from overseas by mandatory automatic exchange” if the information –
- (a) is received from an authority in a territory outside the United Kingdom, and
 - (b) was provided under any provision of EU law or of an international agreement requiring the automatic exchange of information.
- For these purposes “international agreement” means any agreement to which the United Kingdom and the territory concerned are parties, with or without other parties.
- (7) This section is subject to any provision of this Act which allows for a longer period for the bringing of proceedings.”
- (4) The amendments made by this section have effect –
- (a) in a case involving loss of tax brought about carelessly by a person liable for the tax (or a person acting on behalf of such a person), in relation to chargeable transfers taking place on or after 1 April 2013, and
 - (b) in any other case, in relation to chargeable transfers taking place on or after 1 April 2015.
- (5) Section 240(8) of IHTA 1984 applies to the reference to “person liable for the tax” in subsection (4)(a).

Payment

35 Security deposits: construction industry scheme and corporation tax

- (1) In Chapter 3 of Part 3 of FA 2004 (construction industry scheme) –
- (a) in the italic heading before section 69, after “returns” insert “, security”;
 - (b) after section 70 insert –

“70A Security for payments to HMRC

- (1) The Commissioners for Her Majesty’s Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of amounts that a person is or may be liable to pay to the Commissioners under this Chapter.
- (2) Regulations under this section must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.
- (3) Regulations under this section must –
 - (a) make provision about reviews by the Commissioners, or by an officer of Revenue and Customs, of decisions to require security to be given or as to the amount, terms or duration of any security required;
 - (b) provide for a right of appeal against any such decisions.
- (4) Regulations under this section may make provision about the inspection of documents or giving of information relevant to –

- (a) a decision whether to require security to be given;
 - (b) a decision as to the amount, terms or duration of any security required.
- (5) A person commits an offence if –
- (a) the person fails to comply with a requirement to give security that is imposed by regulations under this section, and
 - (b) the failure continues for such period as is prescribed.
- (6) A person who commits an offence under subsection (5) is liable on summary conviction –
- (a) in England and Wales, to a fine;
 - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (7) In this section –
- “prescribed” means prescribed in regulations under this section;
 - “security” includes further security.”
- (2) In Schedule 18 to FA 1998 (company tax returns, assessments and related matters), after paragraph 88 insert –

“Security for payments

- 88A (1) The Commissioners for Her Majesty’s Revenue and Customs may by regulations make provision for and in connection with requiring the giving, by prescribed persons and in prescribed circumstances, of security for the payment of tax that a company is or may be liable to pay.
- (2) Regulations under this paragraph must provide that security may be required only where an officer of Revenue and Customs considers it necessary for the protection of the revenue.
- (3) Regulations under this paragraph must –
- (a) make provision about reviews by the Commissioners, or by an officer of Revenue and Customs, of decisions to require security to be given or as to the amount, terms or duration of any security required;
 - (b) provide for a right of appeal against any such decisions.
- (4) Regulations under this paragraph may make provision about the inspection of documents or giving of information relevant to –
- (a) a decision whether to require security to be given;
 - (b) a decision as to the amount, terms or duration of any security required.
- (5) A person commits an offence if –
- (a) the person fails to comply with a requirement to give security that is imposed by regulations under this paragraph, and
 - (b) the failure continues for such period as is prescribed.
- (6) A person who commits an offence under sub-paragraph (5) is liable on summary conviction –

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

- (7) In this section –
- “prescribed” means prescribed in regulations under this paragraph;
 - “security” includes further security.”

PART 4

EU AND INTERNATIONAL

36 Payment of CGT exit charges

Schedule 15 contains provision about CGT exit charge payment plans.

37 ATAD: corporation tax exit charges

Schedule 16 –

- (a) amends provisions concerning CT exit charge payment plans,
- (b) repeals certain provisions that enable the postponement of exit charges, and
- (c) contains amendments concerning the treatment of assets that are the subject of EU exit charges.

38 ATAD: hybrid and other mismatches

- (1) Part 6A of TIOPA 2010 (hybrid and other mismatches) is amended as follows.

- (2) In section 259HA (circumstances in which Chapter 8 applies) –

- (a) for subsection (5) substitute –

“(5) Condition C is that –

- (a) the payer is within the charge to corporation tax for the payment period, or

- (b) the multinational company –

- (i) is UK resident for the payment period, and
- (ii) under the law of the parent jurisdiction, is regarded as carrying on a business in the PE jurisdiction through a permanent establishment in that territory but, under the law of the PE jurisdiction, is not regarded as doing so.”, and

- (b) in subsection (9)(a), for “company” substitute “payee”.

- (3) For section 259HC (counteraction of the multinational payee deduction/non-inclusion mismatch) substitute –

“259HC Counteraction of the multinational payee deduction/non-inclusion mismatch

For corporation tax purposes –

- (a) if paragraph (b) of Condition C in subsection (5) of section 259HA is met, an amount equal to the multinational payee

- deduction/non-inclusion mismatch mentioned in subsection (6) of that section is to be treated as income arising to the multinational company in the United Kingdom (and nowhere else) for the payment period, and
- (b) in any other case, the relevant deduction that may be deducted from the payer’s income for that period is to be reduced by that amount.”
- (4) In section 259N (meaning of “financial instrument”) –
- (a) in subsection (3), for paragraph (b) substitute –
- “(b) anything of a description specified in regulations made by the Treasury.”, and
- (b) omit subsection (4).
- (5) The amendments made by subsections (2)(a) and (3) have effect in relation to –
- (a) payments made on or after 1 January 2020, and
- (b) quasi-payments in relation to which the payment period begins on or after that date.
- (6) For the purposes of subsection (5)(b), where a payment period begins before 1 January 2020 and ends on or after that date (“the straddling period”) –
- (a) so much of the straddling period as falls before that date, and so much of it as falls on or after that date, are to be treated as separate taxable periods, and
- (b) if it is necessary to apportion an amount for the straddling period to the two separate taxable periods, it is to be apportioned –
- (i) on a time basis according to the respective length of the separate taxable periods, or
- (ii) if that would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- (7) The amendment made by subsection (2)(b) is to be regarded as always having had effect.
- (8) Until the first regulations under subsection (3)(b) of section 259N come into force, that section continues to have effect (other than for the purposes of making those regulations) as if the amendments made by subsection (4) had not been made.

39 Resolution of double taxation disputes

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

“International dispute-resolution instruments and agreements

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

- (1) The Treasury may make regulations for, or in connection with, giving effect to or enabling effect to be given to –
- (a) Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union (“the Directive”);
- (b) any instrument modifying or supplementing the Directive;
- (c) any international agreements or arrangements that deal with –

- (i) matters dealt with by the Directive,
 - (ii) matters that are similar to any of those dealt with by the Directive, or
 - (iii) any other matters that relate to or are connected with the resolution of disputes in relation to double taxation arrangements.
- (2) The provision that may be made by regulations under this section includes (in particular) –
 - (a) provision as to the effect of any arrangements that the Commissioners for Her Majesty’s Revenue and Customs may make with authorities of territories outside the United Kingdom;
 - (b) provision conferring or imposing functions, rights or obligations, or authorising the conferral or imposition of functions, rights or obligations, on a person (including a commission, tribunal or court);
 - (c) provision under which the Commissioners or other persons may exercise discretions;
 - (d) provision about procedure in relation to the resolution of disputes;
 - (e) provision about costs, expenses and fees;
 - (f) provision imposing penalties or creating criminal offences;
 - (g) provision about appeals;
 - (h) provision about the form and manner in which, or time within which, things are to be done;
 - (i) provision supplementing section 128B.
- (3) The regulations may –
 - (a) make provision having effect in relation to periods before the regulations come into force;
 - (b) make provision by reference to an instrument or document as it has effect from time to time;
 - (c) make provision about things done, or to be done, in territories outside the United Kingdom;
 - (d) make different provision for different purposes;
 - (e) make consequential, incidental, supplemental, transitional, transitory or saving provision;
 - (f) make provision amending, repealing, revoking or disapplying, or modifying the effect of, any enactment (whenever passed or made).
- (4) The regulations may not create a criminal offence punishable on indictment with imprisonment for more than two years.
- (5) Regulations under this section containing anything that amends or repeals a provision of primary legislation may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the House of Commons.

In this subsection “primary legislation” means –

 - (a) an Act,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or

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

128B Giving effect to requirements under section 128A regulations

- (1) Subsection (2) applies if anything in regulations under section 128A requires the Commissioners for Her Majesty’s Revenue and Customs to give effect to an agreement, decision or opinion made or given by –
 - (a) the Commissioners (or their authorised representative),
 - (b) the competent authority of a territory outside the United Kingdom, or
 - (c) any commission, tribunal, court or other person.
- (2) The Commissioners are to give effect to the agreement, decision or opinion despite anything in any enactment, and any such adjustment as is appropriate in consequence may be made.
- (3) An adjustment under subsection (2) may be made by way of discharge or repayment of tax, the allowance of credit against tax payable in the United Kingdom, the making of an assessment or otherwise.

128C Disclosure under international obligations etc

- (1) The obligation as to secrecy imposed by any enactment does not prevent –
 - (a) the Commissioners for Her Majesty’s Revenue and Customs,
 - (b) a person who is or was an authorised Revenue and Customs official,
 - (c) a person who is or was a member of a committee or other body established by the Commissioners for Her Majesty’s Revenue and Customs (or jointly by the Commissioners and an authority of a territory outside the United Kingdom), or
 - (d) a person specified, or of a description specified, in regulations made by the Treasury,
 from disclosing information required to be disclosed under a relevant instrument or agreement in pursuance of a request made by any person.
- (2) In this section –
 - “relevant instrument or agreement” means an instrument, agreement or arrangement referred to, or of a kind referred to, in section 128A(1);
 - “Revenue and Customs official” means –
 - (a) a Commissioner for Her Majesty’s Revenue and Customs;
 - (b) an officer of Revenue and Customs;
 - (c) a person acting on behalf of the Commissioners for Her Majesty’s Revenue and Customs;
 - (d) a person acting on behalf of an officer of Revenue and Customs.”

40 International tax enforcement: disclosable arrangements

- (1) The Treasury may, for the purpose of securing compliance with an obligation of the government of the United Kingdom under an international tax provision, make regulations requiring persons who participate in arrangements of a description specified in the regulations to disclose information about those arrangements.
- (2) Regulations under this section may –
 - (a) require information to be disclosed in such form and manner, and at such intervals, as may be specified in the regulations;
 - (b) require persons to disclose information about arrangements that they participated in before (as well as after) the coming into force of this section;
 - (c) provide for the imposition of penalties in respect of a contravention of, or non-compliance with, a requirement of the regulations, including provision about appeals in relation to the imposition of a penalty;
 - (d) make different provision for different purposes.
- (3) For the purposes of subsections (1) and (2) –

“arrangements” includes any scheme, transaction or series of transactions;

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

“international tax provision” means any provision of –

 - (a) any arrangements specified in an Order in Council made under section 173 of FA 2006 (international tax enforcement arrangements), or
 - (b) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, as amended from time to time.
- (4) Regulations under this section may make consequential, supplementary, incidental, transitional or saving provision (and may do so by amending, repealing or revoking an enactment whenever passed or made).
- (5) A statutory instrument containing regulations under this section which amend or repeal an enactment contained in an Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (6) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

SCHEDULES

SCHEDULE 1

Section 6(1)

CHARGEABLE GAINS ACCRUING TO NON-RESIDENTS ETC

PART 1

EXTENDING CASES IN WHICH NON-RESIDENTS ARE CHARGED TO TAX ETC

- 1 TCGA 1992 is amended as follows.
- 2 For the sections contained in Part 1 substitute –

“PART 1

CAPITAL GAINS TAX AND CORPORATION TAX ON CHARGEABLE GAINS

CHAPTER 1

CAPITAL GAINS TAX

Charge to capital gains tax

1 Capital gains tax

- (1) Capital gains tax is charged for a tax year on chargeable gains accruing in the year to a person on the disposal of assets.
- (2) As a result of section 4 of CTA 2009, capital gains tax is not charged on gains accruing to a company, but corporation tax is chargeable instead in accordance with –
 - (a) section 2 of CTA 2009,
 - (b) Chapter 2 of this Part, and
 - (c) other relevant provisions of the Corporation Tax Acts.
- (3) Capital gains tax is charged on the total amount of chargeable gains accruing to a person in a tax year after deducting –
 - (a) any allowable losses accruing to the person in the tax year, and
 - (b) so far as not previously deducted under this subsection, any allowable losses accruing to the person in any previous tax year.

Territorial scope of charge

1A Territorial scope

- (1) A person who is UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of assets wherever situated.
- (2) In the case of individuals who are UK resident for a tax year, see also—
 - (a) Schedule 1 (foreign gains accruing to individuals to whom the remittance basis applies),
 - (b) section 1G (cases where the tax year is a split year),
 - (c) sections 1M and 1N (temporary periods of non-residence),
 - (d) Chapter 3 (gains of non-UK resident close companies attributed to individuals), and
 - (e) sections 86, 87, 87K, 87L and 89(2) (gains of non-UK resident trustees attributed to individuals).
- (3) A person who is not UK resident for a tax year is chargeable to capital gains tax on chargeable gains accruing to the person in the tax year on the disposal of—
 - (a) assets that have a relevant connection to the person's UK branch or agency and are disposed of at a time when the person has that branch or agency (see section 1B),
 - (b) assets not within paragraph (a) that are interests in UK land (see section 1C), and
 - (c) assets (wherever situated) not within paragraph (a) or (b) that derive at least 75% of their value from UK land where the person has a substantial indirect interest in that land (see section 1D and Schedule 1A).
- (4) For the purposes of this Chapter a person is “UK resident” for a tax year if the person is resident in the United Kingdom during any part of the tax year.
- (5) For the relevant residence rules—
 - (a) in the case of individuals, see Schedule 45 to the Finance Act 2013 (which provides that individuals meeting the applicable tests for a tax year are taken to be resident for the whole of the year),
 - (b) in the case of the personal representatives of deceased individuals, see section 62(3), and
 - (c) in the case of trustees of settlements, see section 69.

1B Non-UK residents: UK branch or agency

- (1) For the purposes of section 1A(3)(a) a person has a UK branch or agency at any time if, at that time, the person carries on a trade, profession or vocation in the United Kingdom through a branch or agency there.
- (2) For the purposes of section 1A(3)(a) an asset has a relevant connection to a person's UK branch or agency if—

- (a) it is situated in the United Kingdom at the time of the disposal and it is, or was, used in or for the purposes of the trade, profession or vocation at or before that time,
 - (b) it is situated in the United Kingdom at that time and it is, or was, used or held for the purposes of the branch or agency at or before that time, or
 - (c) it is acquired for use by or for the purposes of the branch or agency (wherever it is situated at that time).
- (3) Section 1A(3)(a) does not apply to a person who, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from income tax for the tax year in respect of the profits or gains of the branch or agency.
- (4) In the case of a profession or vocation carried on by a person, an asset does not have a relevant connection to the person’s UK branch or agency if—
- (a) the asset was only used in or for the purposes of the profession or vocation before 14 March 1989, or
 - (b) the asset was only used or held for the purposes of the branch or agency before that date.
- (5) In this Act, unless the context otherwise requires, “branch or agency”—
- (a) means any factorship, agency, receivership, branch or management, but
 - (b) does not include any person within the exemptions in section 82 of the Management Act (general agents and brokers).

1C Non-UK residents: disposing of an “interest in UK land”

- (1) For the purposes of section 1A(3)(b) an “interest in UK land” means—
- (a) an estate, interest, right or power in or over land in the United Kingdom, or
 - (b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land in the United Kingdom,
- other than an excluded interest.
- (2) The following interests are “excluded interests”—
- (a) any interest or right held for securing the payment of money or the performance of any other obligation,
 - (b) a licence to use or occupy land,
 - (c) in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and
 - (d) such other descriptions of interest or right in relation to land in the United Kingdom as may be specified in regulations made by the Treasury.
- (3) An interest or right is not within subsection (2)(a) if it is—
- (a) a rentcharge, or
 - (b) in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.

- (4) The grant of an option by a person binding the person to dispose of an interest in UK land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in UK land by the person for the purposes of section 1A(3)(b).
- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In this section –
 - “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and
 - “land” includes –
 - (a) buildings and structures, and
 - (b) land under the sea or otherwise covered by water.

1D Non-UK residents: assets deriving 75% of value from UK land etc

- (1) For the purposes of section 1A(3)(c) the following questions are determined in accordance with the provision made by Schedule 1A –
 - (a) whether the asset being disposed of derives at least 75% of its value from UK land, and
 - (b) whether the person making the disposal has a substantial indirect interest in the UK land at the time of the disposal.
- (2) The provision made by Schedule 1A is not to be taken as affecting the meaning of “substantial” in other contexts.

Deduction of allowable losses

1E Losses deductible only when within scope of tax etc

- (1) A loss is not an allowable loss if it accrues in a tax year at a time when, had a gain accrued instead, the gain would not have been chargeable to capital gains tax under this Act for the tax year (and see also sections 16(2) and 16A).
- (2) In addition, the only allowable losses that qualify for deduction from chargeable gains under section 1A(3) (non-UK residents) are those accruing to the person on disposals of assets within that subsection.
- (3) An allowable loss counts for this purpose even if it accrues in a tax year in which the person was UK resident.
- (4) No allowable losses may be deducted from chargeable gains treated as accruing to an individual as a result of section 87, 87K, 87L or 89(2) (read, where appropriate, with section 1M).
- (5) If –
 - (a) amounts (or elements of amounts) treated as accruing to an individual as a result of section 86 relate to different settlements, and
 - (b) the deduction of allowable losses does not reduce the amounts or elements to nil,the deduction applicable to each amount is the proportion that the amount concerned bears to the total of the amounts.

- (6) The deduction of allowable losses also has effect subject to Schedule 1 (UK resident individuals not domiciled in UK).
- (7) For the only case in which an allowable loss accruing in a tax year may be carried back to an earlier tax year, see section 62 (death).

1F Allowable losses to be used in most beneficial way etc

- (1) Allowable losses may (subject to express provision to the contrary) be deducted from gains in whichever way is most beneficial to a person chargeable to capital gains tax.
- (2) Accordingly, an allowable loss may be deducted from a chargeable gain irrespective of the rate of tax at which the gain would otherwise have been charged.
- (3) Allowable losses that are deducted from gains may not be deducted any further than is necessary to eliminate the gains.
- (4) No part of an allowable loss may be relieved under this Act more than once.
- (5) So far as an amount has been relieved under the Income Tax Acts, it may not be further relieved under this Act.

UK resident individuals with split tax years

1G Gains accruing to UK resident individuals in split years

- (1) If, as respects any individual, a tax year is a split year, sections 1A(1) and 1E have effect subject to the modifications made by this section.
- (2) Gains accruing to the individual in the overseas part of the tax year are chargeable to capital gains tax only if they accrue on the disposal of assets within section 1A(3)(a), (b) or (c).
- (3) Losses are deductible from gains accruing to the individual in the overseas part of the tax year on the disposal of assets within section 1A(3)(b) or (c) only if the losses accrue to the individual on the disposal of—
 - (a) assets that are within section 1A(3)(b) or (c), or
 - (b) assets that would be within section 1A(3)(b) or (c) if they did not have a relevant connection to the individual's UK branch or agency.
- (4) But losses accruing in the overseas part of the tax year on disposals of assets within section 1A(3)(b) or (c) are (so far as not deducted as mentioned in subsection (3)) deductible from gains accruing in the UK part of the tax year.

Rates of CGT

1H The main rates of CGT

- (1) This section makes provision about the rates at which capital gains tax is charged but has effect subject to—
 - (a) section 169N (entrepreneurs' relief: rate of 10%), and
 - (b) section 169VC (investors' relief: rate of 10%).

- (2) Chargeable gains accruing in a tax year to an individual that are –
 - (a) residential property gains (see Schedule 1B), or
 - (b) carried interest gains (see subsections (9) to (11)),are charged to capital gains tax at a rate of 18% or 28%.
- (3) Other chargeable gains accruing in a tax year to an individual are charged to capital gains tax at a rate of 10% or 20%.
- (4) The question as to which of the rates applies to the gains concerned is determined by section 1I (income taxed at higher rates or gains exceeding unused basic rate band).
- (5) Chargeable gains accruing in a tax year to the personal representatives of a deceased individual that are –
 - (a) residential property gains, or
 - (b) carried interest gains,are charged to capital gains tax at a rate of 28%.
- (6) Other chargeable gains accruing in a tax year to the personal representatives of a deceased individual are charged to capital gains tax at a rate of 20%.
- (7) Residential property gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 28%.
- (8) Other chargeable gains accruing in a tax year to the trustees of a settlement are charged to capital gains tax at a rate of 20%.
- (9) For the purposes of this section chargeable gains are “carried interest gains” if they accrue to an individual (“X”) –
 - (a) under section 103KA(2) or (3) (investment management services), or
 - (b) as a result of carried interest arising to X under arrangements not involving a partnership under which X performs investment management services directly or indirectly in respect of an investment scheme.
- (10) A gain is not a carried interest gain under subsection (9)(b) if the carried interest constitutes a co-investment repayment or return.
- (11) Expressions used in subsection (9) or (10) have the same meaning as they have in Chapter 5 of Part 3.

1I Income taxed at higher rates or gains exceeding unused basic rate band

- (1) If any of an individual’s income for a tax year is chargeable to income tax at a higher income tax rate, gains accruing to the individual in the tax year are charged –
 - (a) at the rate of 28%(if they are residential property gains or carried interest gains), or
 - (b) at the rate of 20% (if they are other kinds of gains).
- (2) If –
 - (a) none of an individual’s income for a tax year is chargeable to income tax at a higher income tax rate, but

- (b) the individual is chargeable to capital gains tax for the tax year on an amount that exceeds the unused part of the individual's basic rate band,
the excess ("the higher rate excess") is charged at the rate of 28% (so far as comprising residential property gains or carried interest gains) or at the rate of 20% (so far as comprising other kinds of gains).
- (3) The remainder of this section sets out special rules which apply depending on the nature of the gains within subsection (2)(b).
- (4) If—
- (a) the gains consist of or include gains ("entrepreneur or investor gains") chargeable at the rate of 10% under section 169N(3) or 169VC(2), and
- (b) the total amount of the entrepreneur or investor gains exceeds the unused part of the individual's basic rate band, that unused part is used fully against those gains.
- (5) The effect of so doing is that other gains comprised in the higher rate excess are then charged—
- (a) at the rate of 28% (if they are residential property gains or carried interest gains), or
- (b) at the rate of 20% (if they are other kinds of gains).
- (6) If the total amount of the entrepreneur or investor gains does not exceed the unused part of the individual's basic rate band—
- (a) so much of that unused part as is equal to that total amount is used against those gains, and
- (b) accordingly, the higher rate excess consists only of gains other than entrepreneur or investor gains.
- (7) The individual may allocate so much of the unused part of the individual's basic rate band as then remains to—
- (a) any residential property gains or carried interest gains, or
- (b) any other gains.
- (8) The effect of the allocation is that the gains to which the allocation is made are charged—
- (a) at the rate of 18% (if they are residential property gains or carried interest gains), or
- (b) at the rate of 10% (if they are other kinds of gains).
- (9) Any gains to which no allocation is made are charged—
- (a) at the rate of 28% (if they are residential property gains or carried interest gains), or
- (b) at the rate of 20% (if they are other kinds of gains).

1J Section 1I: definitions and other supplementary provision

- (1) For the purposes of section 1I—
- a "higher income tax rate" means—
- (a) the higher rate or the default higher rate,
- (b) the savings higher rate, or
- (c) the dividend upper rate, and

“the unused part of the individual’s basic rate band” means the amount by which the basic rate limit exceeds the individual’s Step 3 income.

- (2) If an individual is entitled to relief for a tax year under section 539 of ITTOIA 2005 (contracts for life insurance) by reference to the amount of a deficiency, the individual’s Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of the deficiency.
- (3) If, as a result of section 669(1) and (2) of ITTOIA 2005 (inheritance tax on accrued income), there is a reduction in the residuary income of an estate for a tax year that reduces an individual’s income by any amount, the individual’s Step 3 income for the tax year is treated for the purposes of this section as reduced by the amount of that reduction in the individual’s income.
- (4) If an individual has life insurance gains for a tax year, the individual’s Step 3 income for the tax year is treated for the purposes of this section as if the amount of those gains were limited to –
 - (a) the annual equivalent within the meaning of section 536(1) of ITTOIA 2005, or
 - (b) the total annual equivalent within the meaning of section 537 of that Act,as the case may be.
- (5) If –
 - (a) an individual has life insurance gains for a tax year,
 - (b) relief is given under section 535 of ITTOIA 2005 for the tax year, and
 - (c) the calculation under section 536(1) or 537 of that Act for the tax year does not involve the higher rate,the individual is treated for the purposes of section 1I as if none of the individual’s income were chargeable to income tax at the higher rate, the default higher rate or the dividend upper rate.
- (6) In the application of section 1I in the case of any individual it is to be assumed that the individual is not a Scottish or Welsh taxpayer.
- (7) In this section –

“the individual’s Step 3 income” means so much of the individual’s total income for the tax year as is left after taking Step 3 under section 23 of ITA 2007 (income tax liability calculation), and

“life insurance gains”, in relation to an individual, means the amount or amounts treated as the individual’s income as a result of section 465 of ITTOIA 2005 (gains from contracts for life insurance).
- (8) Expressions used in this section which have a meaning when used in the Income Tax Acts have the same meaning in this section.

Annual exempt amount

1K Annual exempt amount

- (1) If an individual is (or, apart from this section, would be) chargeable to capital gains tax for a tax year on chargeable gains, the annual exempt amount for the year is to be deducted from those gains (but no further than necessary to eliminate them).
- (2) The annual exempt amount for a tax year is £11,700.
- (3) The annual exempt amount may not be deducted from chargeable gains to which paragraph 2 of Schedule 1 applies (foreign gains of non-UK domiciled individuals accruing in one year and remitted in later year).
- (4) The deduction of the annual exempt amount –
 - (a) is made after the deduction of allowable losses accruing in the tax year, but
 - (b) is made before the deduction of allowable losses accruing in a previous tax year or, if section 62 applies, in a subsequent tax year.
- (5) The annual exempt amount may be deducted from gains in whatever way is most beneficial to a person chargeable to capital gains tax (irrespective of the rate of tax at which the gains would otherwise have been charged).
- (6) An individual is not entitled to an annual exempt amount for a tax year if section 809B of ITA 2007 (claim for remittance basis) applies to the individual for the year.
- (7) For the tax year in which an individual dies and for the next two tax years, this section applies to the individual's personal representatives as if references to the individual were to those personal representatives.
- (8) This section applies in relation to trustees in accordance with the provision made by Schedule 1C.

1L Increasing annual exempt amount to reflect increases in CPI

- (1) If the consumer prices index for the September before the start of a tax year is higher than it was for the previous September –
 - (a) the annual exempt amount is increased by the same percentage as the rise in that index (rounded up to the nearest £100), and
 - (b) section 1K(2) has effect for the tax year (and subsequent tax years) as if it referred to the increased amount.
- (2) If, as a result of this section, the annual exempt amount for a tax year increases, the Treasury must before the start of the tax year make an order showing the increased amount.

Temporary periods of non-residence

1M Temporary non-residents

- (1) If, in the case of the disposal of an asset by an individual who is temporarily non-resident—
 - (a) a gain or loss accrues to the individual in the temporary period of non-residence, and
 - (b) the asset is not excluded from this subsection by section 1N (certain assets acquired in that period),the gain or loss is treated instead as accruing to the individual in the period of return.
- (2) If—
 - (a) a gain is, as a result of subsection (1), treated as accruing to an individual in a tax year for which the remittance basis applies to the individual,
 - (b) the tax year consists of or includes the period of return, and
 - (c) the gain was remitted to the United Kingdom in the temporary period of non-residence,the gain is treated instead as remitted to the United Kingdom in the period of return.
- (3) If—
 - (a) an individual is temporarily non-resident, and
 - (b) a gain would, as a result of section 86, have accrued to the individual in a tax year falling wholly or partly in the temporary period of non-residence if the individual had been resident in the United Kingdom for that year,the gain is treated instead as accruing to the individual in the period of return (but see also section 86A).
- (4) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (5) Nothing in this section is to affect a gain or loss which, apart from this section, would be chargeable to capital gains tax or would be an allowable loss.
- (6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance)—
 - “the period of return”
 - “temporarily non-resident”
 - “the temporary period of non-residence”.
- (7) In this section the reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

1N Section 1M(1): assets acquired in temporary period of non-residence

- (1) An asset is excluded from section 1M(1) if—
 - (a) it was acquired by the individual in the temporary period of non-residence,

- (b) the acquisition was otherwise than by means of a disqualifying no gain/no loss disposal,
 - (c) there is no reduction in the consideration for the acquisition under section 23(4)(b) or (5)(b), 152(1)(b), 153(1)(b), 162(3)(b) or 247(2)(b) or (3)(b) by reference to a UK resident disposal, and
 - (d) the asset is not an interest created by or arising under a settlement.
- (2) This exclusion does not apply in the case of an asset (“the new asset”) if –
- (a) on a disposal of the new asset a gain or loss is treated as a result of 116(10) or (11), 134 or 154(2) or (4) as accruing (ignoring section 1M),
 - (b) the gain or loss is calculated by reference to another asset (“the old asset”), and
 - (c) the new asset is one that meets the conditions for exclusion but the old asset does not.
- (3) For the purposes of this section “a UK resident disposal” means a disposal by a person (“P”) of an asset which was acquired by P at a time when –
- (a) P was resident in the United Kingdom, and
 - (b) P was not Treaty non-resident.
- (4) For the purposes of this section “a disqualifying no gain/no loss disposal” means a UK resident disposal to which section 58, 73 or 258(4) applies.

Interpretation

10 Definitions used in Chapter

In this Chapter any reference to a person who is, or is not, “UK resident” is to be read in accordance with section 1A(4).

CHAPTER 2

CORPORATION TAX ON CHARGEABLE GAINS

Corporation tax on chargeable gains: the general scheme

2 Corporation tax on chargeable gains

- (1) As a result of section 2(1) and (2) of CTA 2009, corporation tax is charged on chargeable gains accruing to a company on the disposal of assets.
- (2) The charge to corporation tax on chargeable gains has effect in accordance with this Act and all other relevant provisions of the Corporation Tax Acts.

2A Company’s total profits to include chargeable gains

- (1) The amount of chargeable gains to be included in a company’s total profits for an accounting period is the total amount of chargeable gains accruing to the company in the period after deducting –
 - (a) any allowable losses accruing to the company in the period, and
 - (b) so far as not previously deducted under this subsection, any allowable losses previously accruing to the company while it was within the charge to corporation tax.
- (2) For the purposes of corporation tax on gains “allowable loss” does not include a loss accruing to a company if, had a gain accrued, the company would not have been chargeable to corporation tax on the gain.

Territorial scope

2B Territorial scope of charge to corporation tax on chargeable gains

- (1) A company which is resident in the United Kingdom in an accounting period is chargeable to corporation tax on chargeable gains accruing to the company in the period on the disposal of assets wherever situated.
- (2) This is subject to Chapter 3A of Part 2 of CTA 2009 (exemption from charge in respect of profits of foreign permanent establishments).
- (3) A company which is not resident in the United Kingdom is chargeable to corporation tax on chargeable gains that –
 - (a) accrue to the company on the disposal of assets that have a relevant connection to the company’s UK permanent establishment (see section 2C),
 - (b) accrue at a time when it has that permanent establishment, and
 - (c) are, in accordance with sections 20 to 32 of CTA 2009, attributable to that permanent establishment.
- (4) In addition, a company which is not resident in the United Kingdom is chargeable to corporation tax on chargeable gains accruing to the company on the disposal of assets not within subsection (3) that are –
 - (a) interests in UK land, or
 - (b) assets (wherever situated) not within paragraph (a) that derive at least 75% of their value from UK land where the company has a substantial indirect interest in that land.
- (5) Section 1C applies for the purposes of subsection (4)(a) as it applies for the purposes of 1A(3)(b) (disposing of interests in UK land).
- (6) The reference in subsection (4)(b) to assets deriving at least 75% of their value from UK land where the company has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.

2C Non-UK resident company with UK permanent establishment

- (1) For the purposes of section 2B(3) a company has a UK permanent establishment at any time if, at that time, the company carries on a trade in the United Kingdom through a permanent establishment there.
- (2) For the purposes of section 2B(3) an asset has a relevant connection to a company's UK permanent establishment if –
 - (a) it is situated in the United Kingdom at the time of the disposal and it is, or was, used in or for the purposes of the trade at or before that time,
 - (b) it is situated in the United Kingdom at that time and it is, or was, used or held for the purposes of the permanent establishment at or before that time, or
 - (c) it is acquired for use by or for the purposes of the permanent establishment (irrespective of where it is situated at that time).
- (3) Section 2B(3) does not apply to a company which, as a result of Part 2 of TIOPA 2010 (double taxation arrangements), is exempt from corporation tax for the accounting period in respect of the profits of the permanent establishment.
- (4) In the case of the long-term business of an overseas life insurance company, subsection (2) has effect as if for paragraph (b) there were substituted –
 - “(b) it is, or was, used or held for the purposes of the permanent establishment at or before that time (irrespective of where it is situated at that time),”.
- (5) In this section references to a trade include an office and references to carrying on a trade include holding an office.

Application of CGT principles etc

2D Application of CGT principles in calculating gains and losses

- (1) The total amount of chargeable gains to be included in a company's total profits for an accounting period is calculated for corporation tax purposes in accordance with capital gains tax principles.
- (2) All of the following questions are determined in accordance with the enactments relating to capital gains tax as if accounting periods were tax years –
 - (a) any question as to the amounts to be, or not to be, taken into account as chargeable gains or allowable losses,
 - (b) any question as to the amounts to be, or not to be, taken into account in calculating gains or losses,
 - (c) any question as to the amounts charged to tax as a company's gains, and
 - (d) any question as to the time when any amount is treated as accruing.
- (3) This section is subject to any provision made elsewhere by the Corporation Tax Acts.

2E References to income tax or Income Tax Acts in case of companies

- (1) If the CGT enactments contain any reference to –
 - (a) income tax, or
 - (b) the Income Tax Acts,the reference is, in relation to a company, to be read as a reference to corporation tax or the Corporation Tax Acts.
- (2) But –
 - (a) this does not affect references to income tax in section 39(2), and
 - (b) so far as the CGT enactments operate by reference to matters of any specified description, account is to be taken for corporation tax purposes of matters of that description confined to companies but not of any confined to individuals.
- (3) In this section “the CGT enactments” means the enactments relating to capital gains tax.

2F Interaction of capital gains tax and corporation tax

- (1) This Act as it has effect in accordance with this Chapter is not to be affected in its operation by the fact that capital gains tax and corporation tax are distinct taxes.
- (2) But this Act is, so far as it is consistent with the Corporation Tax Acts, to apply in relation to capital gains tax and corporation tax on gains as if they were one tax.
- (3) Accordingly, a matter which in a case involving two individuals is relevant to both of them in relation to capital gains tax is in a similar case involving an individual and a company –
 - (a) relevant to the individual in relation to capital gains tax, and
 - (b) relevant to the company in relation to corporation tax.

Supplementary

2G Assets of a company vested in a liquidator

- (1) If assets of a company are vested in a liquidator –
 - (a) this Chapter, and
 - (b) the enactments applied by this Chapter,apply as if the assets were vested in the company and as if the acts of the liquidator in relation to the assets were the company’s acts.
- (2) Accordingly, acquisitions from or disposals to the liquidator by the company are ignored.
- (3) The assets may be vested in the liquidator under section 145 of the Insolvency Act 1986 or Article 123 of the Insolvency (Northern Ireland) Order 1989 or otherwise.

CHAPTER 3

ATTRIBUTION OF GAINS OF NON-UK RESIDENT CLOSE COMPANIES

Gains of non-UK resident companies not otherwise chargeable

3 Gains attributed to UK resident individuals etc

- (1) This section applies if—
 - (a) a chargeable gain accrues at any time to a non-UK resident close company,
 - (b) the gain is connected to avoidance (see section 3A),
 - (c) the gain is not connected to a foreign trade or other economically significant foreign activities (see section 3A), and
 - (d) apart from this section, the gain would not be chargeable to corporation tax or capital gains tax.
- (2) The gain is apportioned among participators, or indirect participators, in the company—
 - (a) who are resident in the United Kingdom at that time, or
 - (b) who are trustees of a settlement and are not resident in the United Kingdom at that time.
- (3) The amount apportioned is equal to the proportion of the gain corresponding to the extent of the person's interest in the company as a participator or indirect participator.
- (4) That amount is treated as a chargeable gain accruing to the person to whom it is apportioned.
- (5) No apportionment of a gain is made to an individual if—
 - (a) the gain accrues in a tax year which, as respects the individual, is a split year, and
 - (b) the gain accrues in the overseas part of the year.
- (6) No apportionment of a gain is made to a person if the total amount that would, apart from this subsection, be apportioned to—
 - (a) the person, and
 - (b) persons connected to the person,
 is 25% or less of the gain.
- (7) A person ("P") is an "indirect participator" in a company ("A") if—
 - (a) another company ("B") which is a non-UK resident close company is a participator in A, and
 - (b) P is a participator in B or P is a participator in a third non-UK resident close company which is participator in B,
 and so on through any number of non-UK resident close companies that are participators in other non-UK resident close companies.
- (8) P's interest as an indirect participator in A in the case of any gain is determined by—
 - (a) apportioning the gain among the participators in A according to the extent of their respective interests as participators, and

- (b) then further apportioning the gain apportioned to B among the participators in B according to the extent of their respective interests as participators, and so on through other companies.
- (9) So far as it would go to reduce or extinguish chargeable gains accruing, as a result of this section, to a person in a chargeable period, this section applies to a loss accruing to the company on the disposal of an asset in that period as it would apply if there had been a gain.
- (10) But –
 - (a) this only applies in relation to that person, and
 - (b) this section does not otherwise apply in relation to losses accruing to the company.
- (11) In this section “a non-UK resident close company” means a company –
 - (a) which is not resident in the United Kingdom, and
 - (b) which would be a close company if it were resident in the United Kingdom.

3A Gains connected to avoidance or foreign activities etc

- (1) A gain accruing to a company on the disposal of an asset is taken to be “connected to avoidance” unless it is shown that neither –
 - (a) the disposal of the asset by the company, nor
 - (b) the acquisition or holding of the asset by the company,formed part of a scheme or arrangements of which the main purpose, or one of the main purposes, was avoidance of liability to capital gains tax or corporation tax.
- (2) A gain is “connected to a foreign trade” if it accrues on the disposal of an asset used only –
 - (a) for the purposes of a trade carried on by the company wholly outside the United Kingdom, or
 - (b) for the purposes of the foreign part of a trade carried on by the company partly within, and partly outside, the United Kingdom,and the reference here to the foreign part of a trade is to the part of the trade carried on outside the United Kingdom.
- (3) For this purpose an asset is to be regarded as used only for the purposes of a trade carried on by the company wholly outside the United Kingdom if –
 - (a) the asset is accommodation, or an interest or right in accommodation, situated outside the United Kingdom, and
 - (b) the accommodation has for each relevant period been furnished holiday accommodation of which a person has made a commercial letting.
- (4) Each of the following is a “relevant period” –
 - (a) the period of 12 months ending with the date of the disposal and each of the two preceding periods of 12 months, or
 - (b) if the company has beneficially owned the accommodation (or interest or right) for more than 36 months, the period of 12

months ending with the date of the disposal and each of the preceding periods of 12 months throughout which the company had that beneficial ownership.

- (5) The reference in this section to the commercial letting of furnished holiday accommodation is to be read in accordance with Chapter 6 of Part 4 of CTA 2009, but as if—
 - (a) sections 266, 268 and 268A were omitted, and
 - (b) the reference to an accounting period in section 267(1) were to a relevant period.
- (6) A gain accruing on the disposal of an asset is “connected to other economically significant foreign activities” if—
 - (a) the asset is used only for the purposes of activities carried on by the company wholly or mainly outside the United Kingdom,
 - (b) the activities consist of the provision of goods or services on a commercial basis, and
 - (c) the activities also satisfy the staff, premises and economic value test.
- (7) Activities satisfy the staff, premises and economic value test if they involve—
 - (a) the use of employees, agents or contractors of the company in numbers, and with competence and authority, commensurate with the size and nature of the activities,
 - (b) the use of premises and equipment commensurate with the size and nature of the activities, and
 - (c) the addition of economic value by the company to the persons to whom the goods or services are provided commensurate with the size and nature of the activities.
- (8) This section applies for the purposes of section 3(1)(b) and (c).

3B Participators and their interests

- (1) “Participator” has the meaning given by section 454 of CTA 2010.
- (2) Any reference to a person’s interest as a participator in a company is to the interest in it represented by all the factors by reference to which the person is a participator.
- (3) Any reference to the extent of a person’s interest as a participator in a company is to such proportion of the interests as participators of all of the company’s participators as, on a just and reasonable basis, is represented by that interest.
- (4) If—
 - (a) the interest of a person in a company is wholly or partly represented by an interest under a settlement (“the beneficial interest”), and
 - (b) the beneficial interest is the factor (or one of them) by reference to which the person would, apart from this subsection, have an interest as a participator in the company,

that interest as a participator is, so far as represented by the beneficial interest, to be treated instead as the interest of the trustees of the settlement.

- (5) If—
- (a) exempt assets of a pension scheme are taken into account in ascertaining a person’s interest as a participator in a company, and
 - (b) if those assets were ignored, an amount in respect of a gain accruing to the company would not be apportioned to the person as a result of section 3,
- no amount in the respect of the gain is to be apportioned to the person as a result of that section.
- (6) For this purpose—
- (a) “assets of a pension scheme” means assets held for the purposes of a fund or scheme to which section 271(1)(c) or (1A) applies, and
 - (b) those assets are “exempt” if, at the time when the gain accrues, a disposal of those assets would be exempt from tax as a result of either of those provisions.
- (7) This section applies for the purposes of section 3.

Prevention of multiple charges

3C Prevention of double UK taxation

- (1) If—
- (a) an amount of tax is paid by a person as a result of section 3 in respect of a gain, and
 - (b) there is a distribution of an amount in respect of the gain before the end of the relevant period,
- the amount of tax is applied so as to reduce or extinguish any liability of the person to tax in respect of the distribution.
- (2) For the purposes of subsection (1)—
- (a) the distribution is one made by way of dividend or distribution of capital or on the dissolution of the company,
 - (b) the tax in respect of the distribution is income tax, corporation tax or capital gains tax, and
 - (c) in determining the liability to tax of any individual in respect of any distribution for a tax year it is to be assumed that the distribution is the highest part of the individual’s income for the year.
- (3) For the purposes of subsection (1) “the relevant period” means the period of 3 years from the end of whichever of the following periods is earlier—
- (a) the period of account of the company in which the gain accrued, and
 - (b) the period of 12 months beginning with the date on which the gain accrued.

- (4) The amount of tax paid by a person as a result of section 3 is allowable as a deduction in calculating a chargeable gain accruing on the disposal by the person of any asset representing the person's interest as a participator in the company.
- (5) An amount of tax –
 - (a) is not to be used more than once under this section (whether to reduce or extinguish a liability or as a deduction or a combination of those things), and
 - (b) is not to be applied if it is reimbursed by the company.

Non-UK domiciled individuals and temporary non-residents

3D Non-UK domiciled individuals

- (1) This section applies if, as a result of section 3, an amount in respect of a gain accruing to a company in a tax year is apportioned to an individual who is not domiciled in the United Kingdom in that year.
- (2) The apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset if the asset disposed of by the company is a foreign asset (but not otherwise).
- (3) For the purposes of Chapter A1 of Part 14 of ITA 2007 (remittance basis) –
 - (a) treat any consideration obtained by the company on the disposal of the asset as deriving from the apportioned amount, and
 - (b) if that consideration is less than the market value of the asset, treat the asset as deriving from the apportioned amount.
- (4) The apportioned amount may not be reduced or extinguished by a loss under section 3 if –
 - (a) the apportioned amount is regarded for the purposes of paragraph 1 of Schedule 1 as accruing on a disposal of a foreign asset,
 - (b) the remittance basis applies to the individual for the tax year in question, and
 - (c) any of the apportioned amount is remitted to the United Kingdom in a subsequent tax year.
- (5) In this section –
 - “foreign asset” means an asset situated outside the United Kingdom, and
 - a reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.

3E Temporary non-residents

- (1) This section applies if –
 - (a) an individual is temporarily non-resident, and
 - (b) a gain or loss accrues to a company in a tax year falling wholly or partly in the temporary period of non-residence.

- (2) So much of the gain as would, as a result of section 3, have been treated as accruing to the individual in the tax year if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (3) So much of the loss accruing in the tax year as would, in accordance with section 3(9), have reduced or extinguished a gain treated as accruing to the individual in that year as a result of section 3 if the residence assumption were made is to be treated as accruing to the individual in the period of return.
- (4) For the purposes of this section the “residence assumption” is –
 - (a) that the individual was resident in the United Kingdom for the tax year in which the gain or loss accrued to the company, and
 - (b) that the tax year was not a split year as respects the individual.
- (5) Nothing in any double taxation arrangements prevents a charge to capital gains tax arising as a result of this section.
- (6) For the purposes of this section each of the following expressions has the meaning given by Part 4 of Schedule 45 to the Finance Act 2013 (statutory residence test: anti-avoidance) –
 - “the period of return”
 - “temporarily non-resident”
 - “the temporary period of non-residence”.

Application to groups

3F Non-resident groups of companies

- (1) This section applies, for the purposes of section 3, certain provisions of this Act (modified as mentioned below) in relation to non-resident companies which are members of a non-resident group of companies.
- (2) The applied provisions are –
 - (a) section 41(8),
 - (b) section 171 but as if subsections (1)(b) and (1A) were omitted,
 - (c) section 173 but as if “to which this section applies” in subsections (1)(a) and (2)(a) were omitted, as if “such” in subsections (1)(c) and (2)(c) were omitted and as if subsection (3) were omitted,
 - (d) section 174(4) but as if “at a time when both were members of the group” were substituted for “in a transfer to which section 171(1) applied”,
 - (e) section 175(1) but as if “to which this section applies” were omitted, and
 - (f) section 179 but as if subsections (1)(b) and (1A) were omitted, as if for any reference to a group of companies there were substituted a reference to a non-resident group of companies and as if for any reference to a company there were substituted a reference to a non-resident company.

- (3) In this section –
- “non-resident company” means a company which is not resident in the United Kingdom,
- “non-resident group of companies” –
- (a) in the case of a group none of whose members are resident in the United Kingdom, means that group, and
- (b) in the case of a group some of whose members are not resident in the United Kingdom, means the members which are not resident in the United Kingdom, and
- “group” is to be read in accordance with section 170.

Supplementary

3G Supplementary provisions

- (1) If tax payable by a person (“P”) as a result of section 3 is paid by –
- (a) the company (“C”) to which the gain accrues, or
- (b) a company by reference to which P is regarded as an indirect participator in C,
- the amount paid is not a payment to P for tax purposes.
- (2) The reference here to tax purposes is to the purposes of income tax, capital gains tax or corporation tax.
- (3) For the purposes of section 3 the amount of a gain or loss accruing to a company is calculated as if the company were chargeable to corporation tax on the gain.”

3 Omit sections 16ZB to 16ZD (losses of non-UK domiciled individuals).

4 After section 36 insert –

“Re-basing for non-residents for UK land etc held on 5 April 2019

36A Re-basing in relation to direct or indirect disposals of UK land

Schedule 4AA makes provision for the re-basing of assets where –

- (a) the assets are held on 5 April 2019,
- (b) there is a disposal after that date, and
- (c) the disposal is a direct or indirect disposal of UK land (within the meaning of that Schedule).”

5 Omit Chapter 5 of Part 2 (computation of gains and losses: relevant high value disposals).

6 Omit Chapter 6 of Part 2 (computation of gains and losses: non-resident CGT disposals).

7 Omit Chapter 7 of Part 2 (computation of gains and losses: disposals of residential property interests).

8 After section 271 insert –

“Visiting forces and official agents etc

271ZA Visiting forces and staff of designated allied headquarters

- (1) This section applies for the purposes of capital gains tax if section 833 of ITA 2007 (visiting forces and staff of designated allied headquarters) applies to an individual throughout a period.
- (2) The period is not a period of residence in the United Kingdom.
- (3) The period does not create a change of the individual’s residence or domicile.

271ZB Official agents of Commonwealth countries or Republic of Ireland etc

- (1) An individual who is entitled to immunity from income tax as a result of section 841 of ITA 2007 (official agents of Commonwealth countries or Republic of Ireland etc) is entitled to the same immunity from capital gains tax as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.
- (2) The reference here to a member of the staff of a mission is to be read in accordance with the Diplomatic Privileges Act 1964.”

9 Omit Schedule B1 (disposals of UK residential property interests).

10 Omit Schedule BA1 (disposals of non-UK residential property interests).

11 Omit Schedule C1 (section 14F: meaning of “closely-held company” and “widely-marketed scheme”).

12 For Schedule 1 substitute –

“SCHEDULE 1

UK RESIDENT INDIVIDUALS NOT DOMICILED IN UK

Foreign gains treated as accruing when remitted to UK

- 1 (1) This paragraph applies in the case of an individual to whom the remittance basis applies for a tax year if –
 - (a) in that year the individual disposes of foreign assets,
 - (b) chargeable gains accrue to the individual on the disposal of those assets, and
 - (c) the gains are not taken outside the charge to capital gains tax as a result of section 1G (cases where tax year is a split year).
- (2) The gains are treated as accruing to the individual only so far as, and at the time when, they are remitted to the United Kingdom.
- (3) The amount treated as accruing is equal to the full amount remitted to the United Kingdom at that time.

Use of allowable losses against foreign gains remitted in later year

- 2 (1) This paragraph applies if—
- (a) gains are treated as accruing to an individual in a tax year as a result of paragraph 1,
 - (b) the tax year is later than the one (“the actual year of accrual”) in which those gains actually accrued to the individual, and
 - (c) an election under section 16ZA (election for foreign losses to be allowable losses) has effect for both the tax year and the actual year of accrual.
- (2) No allowable losses may be deducted under section 1 from the gains.
- (3) This prohibition—
- (a) applies regardless of whether or not the allowable losses accrue on disposals of foreign assets, but
 - (b) does not prevent the prior application of paragraph 3(3) in relation to the gains (which contains a rule for reducing the amount of the gains by reference to losses).

Matching rules for relieving allowable losses

- 3 (1) This paragraph applies in the case of an individual for a tax year if—
- (a) the remittance basis applies to the individual for the tax year, and
 - (b) an election under section 16ZA has effect for the tax year.
- (2) Allowable losses accruing to the individual must be matched to chargeable gains accruing to the individual in accordance with paragraph 4.
- (3) If allowable losses are matched to chargeable gains accruing on disposals of foreign assets—
- (a) which actually accrue in the tax year, but
 - (b) which are, as a result of paragraph 1, treated as not accruing in the tax year,
- the amount of those gains is reduced by the matched amount. (and the allowable losses are reduced accordingly).
- (4) So far as allowable losses are matched to other chargeable gains, they are deducted from chargeable gains accruing to the individual in the tax year.
- (5) This is subject to—
- (a) paragraph 2 (no use of allowable losses against foreign gains remitted in later year), and
 - (b) section 1E(4) (prohibition of deduction of losses from gains treated as accruing under section 87, 87K, 87L or 89(2)).

Rules for matching losses to chargeable gains

- 4 (1) This paragraph explains how, for the purposes of paragraph 3, allowable losses are matched to chargeable gains in the case of an individual to whom that paragraph applies for a tax year.
- (2) The losses are matched to the gains in the following order –
- first*, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are remitted to the United Kingdom in the tax year;
 - second*, gains actually accruing to the individual in the tax year on the disposal of foreign assets so far as they are not remitted to the United Kingdom in the tax year;
 - third*, any other gains accruing to the individual in the tax year.
- (3) If the tax year is a split year, the matching under the first and second steps is to be done by reference to the extent to which the gains are, or are not, remitted in the UK part of the year.
- (4) If there are losses to be matched to gains under the second step but the losses are insufficient to eliminate the gains –
- (a) the losses are to be matched against gains accruing on the most recent day first (and then the next most recent day and so on until none of the losses remain), and
 - (b) if losses cannot be matched fully against gains accruing on a particular day, the appropriate portion of the losses is matched against each of the gains.
- (5) “The appropriate portion” means the amount of each gain accruing on the day divided by the total amount of all of the gains accruing on the day.

Definitions

- 5 (1) In this Schedule “foreign asset” means an asset situated outside the United Kingdom.
- (2) In this Schedule any reference to “the remittance basis” applying to an individual for a tax year is to section 809B, 809D or 809E of ITA 2007 applying to the individual for the year.
- (3) For the purposes of this Schedule any question as to whether, and when, amounts are “remitted to the United Kingdom” is determined in accordance with the rules in Chapter A1 of Part 14 of ITA 2007.”

13 After Schedule 1 insert –

“SCHEDULE 1A

ASSETS DERIVING 75% OF VALUE FROM UK LAND ETC

PART 1

INTRODUCTION

- 1 This Schedule makes provision, for the purposes of section 1A(3)(c) or 2B(4)(b), for determining in the case of any disposal of any asset –
- (a) whether the asset derives at least 75% of its value from UK land (see Part 2 of this Schedule), and
 - (b) whether the person making the disposal has a substantial indirect interest in the UK land (see Part 3 of this Schedule).

PART 2

WHETHER ASSET DERIVES AT LEAST 75% OF ITS VALUE FROM UK LAND

The basic rule

- 2 (1) An asset derives at least 75% of its value from UK land if –
- (a) the asset consists of a right or an interest in a company, and
 - (b) at the time of the disposal, at least 75% of the total market value of the company’s qualifying assets derives (directly or indirectly) from interests in UK land.
- (2) Market value may be traced through any number of companies, partnerships, trusts and other entities or arrangements.
- (3) It is irrelevant whether the law under which a company, partnership, trust or other entity or an arrangement is established or has effect is –
- (a) the law of any part of the United Kingdom, or
 - (b) the law of any territory outside the United Kingdom.
- (4) The assets held by a company, partnership or trust or other entity or arrangement must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.
- (5) For the purposes of this paragraph –
- “interest in UK land” has the meaning given by section 1C, and
- “qualifying assets” has the meaning given by paragraph 3.
- (6) The provision made by this paragraph is subject to exceptions provided by –
- (a) paragraph 4 (interests in UK land used for trading purposes), and

- (b) paragraph 5 (certain disposals of rights or interests in connected companies).

Meaning of “qualifying assets”

- 3 (1) Subject as follows, all of the assets of a company are qualifying assets.
- (2) An asset of a company is not a qualifying asset if it is to any extent matched by a related party liability
- (3) An asset of a company is matched by a related party liability if –
 - (a) the asset consists of a right under a transaction (for example, a right under a loan relationship or derivative contract),
 - (b) the right entitles the company to require another person to meet a liability arising under the transaction, and
 - (c) the other person is someone whose assets fall to be taken into account in the tracing exercise mentioned in paragraph 2 or has obligations (whether as a trustee or otherwise) in relation to the holding of assets comprised in any trust or other arrangement that fall to be taken into account in that exercise.
- (4) So far as it would not otherwise be the case, a person is to be regarded as meeting the condition in sub-paragraph (3)(c) if, as determined in accordance with Part 8ZB of CTA 2010, the person is a related party of the company.
- (5) An interest in UK land is a qualifying asset even if it is matched by a related party liability.
- (6) In this paragraph a liability includes a contingent liability (such as one arising as a result of the giving of a guarantee, indemnity or other form of financial assistance).

Exception in relation to interests in UK land used for trading purposes

- 4 (1) A disposal of a right or interest in a company is not to be regarded as a disposal of an asset deriving at least 75% of its value from UK land if it is reasonable to conclude that, so far as the market value of the company’s qualifying assets derives (directly or indirectly) from interests in UK land –
 - (a) all of the interests in UK land are used for trading purposes, or
 - (b) all of the interests in UK land other than those of an insignificant value are used for trading purposes.
- (2) An interest in UK land is “used for trading purposes” if (and only if), at the time of the disposal –
 - (a) it is being used in, or for the purposes of, a qualifying trade, or
 - (b) it has been acquired for use in, or the purposes of, a qualifying trade.
- (3) A trade is a “qualifying” trade if –

- (a) it has been carried on by the company, or by a person connected with the company, throughout the period of one year ending with the time of the disposal on a commercial basis with a view to the realisation of profits, and
 - (b) it is reasonable to conclude that the trade will continue to be carried on (for more than an insignificant period of time) on a commercial basis with a view to the realisation of profits.
- (4) For the purposes of this paragraph, an interest in UK land is regarded as being of insignificant value if, having regard to all the circumstances (including, in particular, anything relating to the value or nature of the company's qualifying assets), it is reasonable to regard the value of the interest as insignificant.

Exception for certain disposals of rights or interests in connected companies

- 5 (1) This paragraph applies if—
- (a) there are two or more disposals of rights or interests in companies that are linked with each other,
 - (b) some but not all of the disposals would, apart from this paragraph, be disposals of assets deriving at least 75% of their value from UK land, and
 - (c) if one of the companies included all of the assets of the others, a disposal of a right or interest in it would not be a disposal of an asset deriving at least 75% of its value from UK land.
- (2) None of the disposals are to be regarded as disposals of assets deriving at least 75% of their value from UK land.
- (3) For the purpose of applying sub-paragraph (1)(c) in any case, an asset of a company is to be left out of account if it consists of a right under a transaction (for example, a right under a loan relationship or derivative contract) that entitles it to require—
- (a) another company whose assets fall to be taken into account under that provision in that case, or
 - (b) a person connected with anyone by whom any of the disposals is made,
- to meet a liability arising under the transaction.
- (4) An asset is not to be left out of account if it is an interest in UK land.
- (5) For the purposes of this paragraph a disposal of a right or interest in a company is linked with a disposal of a right or interest in another company if—
- (a) the disposals are made under the same arrangements,
 - (b) the disposals are made by the same person or by persons connected with each other,
 - (c) the disposals are made to the same person or to persons connected with each other, and
 - (d) in the case of each disposal, the person making the disposal is connected with the company in which the right or interest is disposed of.

- (6) For the purposes of this paragraph, the question whether or not a person is connected with another is to be determined immediately before the arrangements are entered into.

PART 3

WHETHER PERSON HAS SUBSTANTIAL INDIRECT INTEREST IN UK LAND

Basic rule

- 6 (1) If—
- (a) a person disposes of an asset consisting of a right or an interest in a company, and
 - (b) the asset derives at least 75% of its value from UK land, the person has a substantial indirect interest in UK land if, at any time in the period of 2 years ending with the time of the disposal, the person has a 25% investment in the company.
- (2) But a person is not to be regarded as having a 25% investment in the company at times falling in the person's qualifying ownership period if, having regard to the length of that period, the times (taken as whole) constitute an insignificant proportion of that period.
- (3) The "person's qualifying ownership period" means the period throughout which the person has held an asset consisting of a right or an interest in the company, but excluding times that fall before the beginning of the 2 year period mentioned in subparagraph (1).

Meaning of "25% investment"

- 7 (1) A person ("P") has a 25% investment in a company ("C") if—
- (a) P possesses or is entitled to acquire 25% or more of the voting power in C,
 - (b) in the event of a disposal of the whole of the equity in C, P would receive 25% or more of the proceeds,
 - (c) in the event that the income in respect of the equity in C were distributed among the equity holders in C, P would receive 25% or more of the amount so distributed, or
 - (d) in the event of a winding-up of C or in any other circumstances, P would receive 25% or more of C's assets which would then be available for distribution among the equity holders in C in respect of the equity in C.
- (2) In this paragraph references to the equity in C are to—
- (a) the shares in C other than restricted preference shares, or
 - (b) loans to C other than normal commercial loans.
- (3) For this purpose "shares in C" includes—
- (a) stock, and
 - (b) any other interests of members in C.
- (4) For the purposes of this paragraph a person is an equity holder in C if the person possesses any of the equity in C.

- (5) For the purposes of this paragraph—
“normal commercial loan” means a loan which is a normal commercial loan for the purposes of section 158(1)(b) or 159(4)(b) of CTA 2010, and
“restricted preference shares” means shares which are restricted preference shares for the purposes of section 160 of CTA 2010.
- (6) In a case where C is a company which does not have share capital, in applying for the purposes of this paragraph the definitions of “normal commercial loan” and “restricted preference shares”—
(a) sections 160(2) to (7) and 161 to 164 of CTA 2010, and
(b) any other relevant provisions of that Act,
have effect with the necessary modifications.
- (7) In this paragraph references to a person receiving any proceeds, amount or assets include—
(a) the direct or indirect receipt of the proceeds, amount or assets, and
(b) the direct or indirect application of the proceeds, amount or assets for the person’s benefit,
and it does not matter whether the receipt or application is at the time of the disposal, distribution, winding-up or other circumstances or at a later time.
- (8) If—
(a) there is a direct receipt or direct application of any proceeds, amount or assets by or for the benefit of a person (“A”), and
(b) another person (“B”) directly or indirectly owns a percentage of the equity in A,
there is, for the purposes of sub-paragraph (7), an indirect receipt or indirect application of that percentage of the proceeds, amount or assets by or for the benefit of B.
- (9) For this purpose the percentage of the equity in A directly or indirectly owned by B is to be determined by applying the rules in sections 1155 to 1157 of CTA 2010 with such modifications (if any) as may be necessary.
- (10) Sub-paragraph (7) is not to result in a person being regarded as having a 25% investment in another person merely as a result of their being parties to a normal commercial loan.
- (11) Any reference in this paragraph, in the case of a person who is a member of a partnership, to the proceeds, amount or assets of the person includes the person’s share of the proceeds, amount or assets of the partnership (apportioning those things between the partners on a just and reasonable basis).

Attribution of rights and interests

- 8 (1) In determining for the purposes of paragraph 7 the investment that a person (“P”) has in a company, P is to be taken to have all of the rights and interests of any person connected with P.

- (2) A person is not to be regarded as connected with another person for the purposes of this paragraph merely as a result of their being parties to a loan that is a normal commercial loan for the purposes of paragraph 7.
- (3) Section 286 (connected persons: interpretation) has effect for the purposes of this paragraph –
 - (a) as if, in subsection (2), for the words from “, or is a relative” to the end there were substituted “or is a lineal ancestor or lineal descendant of the individual or of the individual’s spouse or civil partner”, and
 - (b) as if subsections (4) and (8) were omitted.

PART 4

ANTI-AVOIDANCE

- 9 (1) This paragraph applies if a person has entered into any arrangements the main purpose, or one of the main purposes, of which is to obtain a tax advantage for the person as a result (wholly or partly) of –
 - (a) a provision of this Schedule applying or not applying, or
 - (b) double taxation arrangements having effect despite a provision of this Schedule in a case where the advantage is contrary to the object and purpose of the double taxation arrangements.
- (2) The tax advantage is to be counteracted by the making of such adjustments as are just and reasonable.
- (3) The adjustments may be made (whether by an officer of Revenue and Customs or the person) by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.
- (4) The counteraction has effect in a treaty shopping case regardless of section 6(1) of TIOPA 2010.
- (5) This paragraph applies by reference to –
 - (a) arrangements entered into on or after 22 November 2017 in a treaty shopping case, and
 - (b) arrangements entered into on or after 6 July 2018 in any other case.
- (6) In this paragraph –
 - “arrangements” (except in the expression “double taxation arrangements”) includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
 - “double taxation arrangements” means arrangements that have effect under section 2(1) of TIOPA 2010,
 - “tax” means capital gains tax or corporation tax,
 - “tax advantage” includes –
 - (a) relief or increased relief from tax,
 - (b) repayment or increased repayment of tax,

- (c) avoidance or reduction of a charge to tax or an assessment to tax,
- (d) avoidance of a possible assessment to tax,
- (e) deferral of a payment of tax or advancement of a repayment of tax, and
- (f) avoidance of an obligation to deduct or account for tax, and

“treaty shopping case” means a case where this paragraph applies as a result of sub-paragraph (1)(b).”

14 After Schedule 1A insert –

“SCHEDULE 1B

RESIDENTIAL PROPERTY GAINS

Meaning of “residential property gain”

- 1 (1) For the purposes of Chapter 1 of Part 1 “residential property gain” means so much of a chargeable gain accruing to a person on a disposal of residential property as, in accordance with paragraph 2, is attributable to that property.
- (2) The question whether or not a person disposes of residential property is determined in accordance with paragraphs 3 to 7.

Attribution of gain to residential property

- 2 (1) The proportion of a chargeable gain attributable to residential property is equal to –
 - (a) the relevant fraction of the gain, and
 - (b) if there has been mixed use of the land to which the disposal relates on one or more days in the applicable period, the relevant fraction of the gain as adjusted, on a just and reasonable basis, to take account of the mixed use on the day or days.
- (2) The relevant fraction is A/B where –

A is the number of days in the applicable period on which the land to which the disposal relates consists of or includes a dwelling, and

B is the total number of days in the applicable period.
- (3) There is mixed use of land on any day on which the land consists of –
 - (a) one or more dwellings, and
 - (b) other land.
- (4) If the disposal is of an interest in land subsisting under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling, that land is taken to consist of or include a dwelling throughout the applicable period.
- (5) In this paragraph “the applicable period” means the period –

- (a) beginning with the day on which the person making the disposal acquired the interest in land being disposed of or, if later, the day from which the interest in land became chargeable, and
 - (b) ending with the day before the day on which the disposal occurs.
- (6) For the purposes of this paragraph an interest in land became “chargeable” –
- (a) in any case where the disposal is of an interest in land in the United Kingdom by a person in a tax year in which the person is not UK resident, from 6 April 2015, and
 - (b) in any other case, from 31 March 1982.
- (7) If the interest in land disposed of by the person results from interests in land acquired by the person at different times, the person is regarded for the purposes of this paragraph as having acquired the interest disposed of at the time of the first acquisition.

Disposing of residential property

- 3 (1) For the purposes of this Schedule a person “disposes of residential property” if the person disposes of an interest in land in a case where –
- (a) the land consisted of or included a dwelling at any time falling on or after the date on which the applicable period begins,
 - (b) the interest in land subsisted for the benefit of land that consisted of or included a dwelling at any time falling on or after that date, or
 - (c) the interest in land subsists under a contract for the acquisition of land consisting of or including a building that is to be constructed or adapted for use as a dwelling.
- (2) No account is to be taken for the purposes of this paragraph of any time falling on (or after) the day on which the disposal is made.

Interest in land

- 4 (1) For the purposes of this Schedule an “interest in land” means –
- (a) an estate, interest, right or power in or over land, or
 - (b) the benefit of an obligation, restriction or condition affecting the value of an estate, interest, right or power in or over land,
- other than an excluded interest.
- (2) The following interests are “excluded interests” –
- (a) any interest or right held for securing the payment of money or the performance of any other obligation,
 - (b) a licence to use or occupy land,
 - (c) in relation to land in England and Wales or Northern Ireland, a tenancy at will or an advowson, franchise or manor, and

- (d) such other descriptions of interest or right in relation to land as may be specified in regulations made by the Treasury.
- (3) An interest or right is not within sub-paragraph (2)(a) if it is –
 - (a) a rentcharge, or
 - (b) in relation to land in Scotland, a feu duty or a payment mentioned in section 56(1) of the Abolition of Feudal Tenure etc (Scotland) Act 2000.
- (4) The grant of an option by a person binding the person to dispose of an interest in land is (so far as it would not otherwise be the case) regarded as a disposal of an interest in land by the person for the purposes of this Schedule.
- (5) This does not affect the operation of section 144 in relation to the grant of the option (or otherwise).
- (6) In applying the domestic concepts of law mentioned in this paragraph to land outside the United Kingdom, this paragraph is to be read so as to produce the result most closely corresponding with that produced in relation to land in the United Kingdom.
- (7) In this paragraph –
 - “franchise” means a grant from the Crown such as the right to hold a market or fair, or the right to take tolls, and
 - “land” includes –
 - (a) buildings and structures, and
 - (b) land under the sea or otherwise covered by water.

Dwelling: basic meaning

- 5 (1) For the purposes of this Schedule a building is a dwelling at any time when –
 - (a) it is used, or suitable for use, as a dwelling and it is not an institutional building, or
 - (b) it is in the process of being constructed or adapted for use as a dwelling.
- (2) Land that at any time is, or is intended to be, occupied or enjoyed with a dwelling as a garden or grounds (including any building or structure) is taken to be part of the dwelling at that time.
- (3) A building is an institutional building if –
 - (a) it is used as residential accommodation for school pupils,
 - (b) it is used as residential accommodation for members of the armed forces,
 - (c) it is used as a home or other institution providing residential accommodation for children,
 - (d) it is used as a home or other institution providing residential accommodation with personal care for persons in need of personal care because of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder,
 - (e) it is used as a hospital or hospice,

- (f) it is used as a prison or similar establishment,
 - (g) it is used as a hotel or inn or similar establishment,
 - (h) it is otherwise used, or suitable for use, as an institution that is the sole or main residence of its residents,
 - (i) it falls within –
 - (i) paragraph 4 of Schedule 14 to the Housing Act 2004 (buildings in England or Wales occupied by students and managed or controlled by their educational establishment etc), or
 - (ii) any corresponding provision having effect in Scotland or Northern Ireland, or
 - (j) it qualifies in accordance with the next sub-paragraph as student accommodation.
- (4) A building qualifies as student accommodation in accordance with this sub-paragraph at any time if the time falls in a tax year in which –
- (a) the accommodation provided by the building includes at least 15 bedrooms,
 - (b) the accommodation is purpose-built, or is converted, for occupation by students, and
 - (c) the accommodation is occupied by students on at least 165 days.
- (5) Accommodation is to be regarded as occupied by persons as students if they occupy it wholly or mainly for undertaking a course of education (otherwise than as school pupils).

Building temporarily unsuitable for use as a dwelling

- 6
- (1) A building is treated for the purposes of paragraph 5 as continuing to be suitable for use as a dwelling at any time when it has become temporarily unsuitable for use as a dwelling.
 - (2) There is an exception to this rule if –
 - (a) the temporary unsuitability resulted from accidental damage to the building, and
 - (b) the damage resulted in the building becoming unsuitable for use as a dwelling for a period of at least 90 consecutive days (“the 90 day period”).
 - (3) This exception does not apply if the damage occurred in the course of work that –
 - (a) was being done for the purpose of altering the building, and
 - (b) itself involved, or could be expected to involve, making the building unsuitable for use as a dwelling for at least 30 consecutive days.
 - (4) If the exception applies, work done in the 90 day period to restore the building to suitability for use as a dwelling is not to count for the purposes of paragraph 5 as constructing or adapting the building for use as a dwelling.
 - (5) For the purposes of this paragraph –

- (a) references to accidental damage include damage otherwise caused by events beyond the control of the person disposing of the interest in land,
 - (b) references to alteration of a building include its partial demolition, and
 - (c) the 90 day period does not include the day of the disposal (or later days).
- (6) For the purposes of this paragraph a building’s unsuitability for use as a dwelling is not regarded as temporary if paragraph 7 applies (disposal of a building that has undergone works).

Disposal of a building that has undergone works

- 7 (1) If—
- (a) a person disposes of an interest in land on which a building has been available for use as a dwelling, and
 - (b) as a result of qualifying works, the building has, at or before the time of completion of the disposal, ceased to exist or become unsuitable for use as a dwelling,
- the building is to be regarded for the purposes of paragraph 5 as unsuitable for use as a dwelling throughout the works period.
- (2) For the purposes of this paragraph works are “qualifying” works if—
- (a) any planning permission or development consent required for the works, or for any change of use with which they are associated, has been granted (whether before or after completion), and
 - (b) the works have been carried out in accordance with the permission or consent.
- (3) In this paragraph “the works period” means—
- (a) the period when the works were in progress, and
 - (b) such period (if any) ending immediately before the start of the works throughout which the building was, for reasons connected with the works, not used as dwelling.
- (4) If at any time when qualifying works are in progress—
- (a) the building was undergoing any other work, or put to any other use, in relation to which planning permission or development consent was required but has not (at any time) been granted, or
 - (b) anything else was being done in contravention of a condition or requirement attached to a planning permission or development consent relating to the building,
- the works period does not include that time.
- (5) If sub-paragraph (1) would have applied but for the fact that, at the completion of the disposal, the works are not qualifying works, the works are regarded as not affecting the building’s suitability for use as a dwelling at any time before the disposal.

Other definitions

- 8 (1) For the purposes of this Schedule a building is regarded as ceasing to exist from the time when either –
- (a) it has been demolished completely to ground level, or
 - (b) it has been demolished to ground level except for a single facade (or a double facade if it is on a corner site) the retention of which is a condition or requirement of planning permission or development consent.
- (2) For the purposes of this Schedule the completion of the disposal of an interest in land is regarded as occurring –
- (a) at the time of the disposal, or
 - (b) if the disposal is under a contract which is completed by a conveyance, transfer or other instrument, at the time when the instrument takes effect.
- (3) In this Schedule –
- “building” includes a part of a building,
- “development consent” means –
- (a) in the case of land in the United Kingdom, development consent under the Planning Act 2008, and
 - (b) in the case of land outside the United Kingdom, consent corresponding to development consent under that Act, and
- “planning permission” –
- (a) in the case of land in England or Wales, has the meaning given by section 336(1) of the Town and Country Planning Act 1990,
 - (b) in the case of land in Scotland, has the meaning given by section 227(1) of the Town and Country Planning (Scotland) Act 1997,
 - (c) in the case of land in Northern Ireland, has the meaning given by Article 2(2) of the Planning (Northern Ireland) Order 1991, and
 - (d) in the case of land outside the United Kingdom, means permission corresponding to any planning permission in relation to land anywhere in the United Kingdom.”

15 After Schedule 1B insert –

“SCHEDULE 1C

ANNUAL EXEMPT AMOUNT IN CASES INVOLVING SETTLED PROPERTY

Introductory

- 1 (1) This Schedule provides for the application of section 1K (in some cases with modifications) in relation to the trustees of a settlement for a tax year.
- (2) The application of this Schedule depends on (among other things) whether or not –

- (a) a settlement is for the benefit of a disabled person, and
 - (b) a settlement is a qualifying UK settlement.
- (3) For the definitions of those expressions, see paragraphs 3 and 7 respectively.
- (4) In this Schedule any reference to the application of section 1K in relation to an individual for a tax year is to its application in relation to an individual who is resident and domiciled in the United Kingdom for the year.

Settlements for the benefit of disabled persons

- 2 (1) In the case of a settlement for the benefit of a disabled person for a tax year, section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year.
- (2) This paragraph needs to be read with—
- (a) paragraph 6 (cases where settlement is a qualifying UK settlement comprised in a group), and
 - (b) paragraph 8 (sub-fund settlements).
- 3 (1) A settlement is a “settlement for the benefit of a disabled person” for a tax year if, for the whole or part of that year, settled property is held on trusts which secure that, during the lifetime of a disabled person, the property and income tests are met.
- (2) The property test is met if any of the property which is applied for the benefit of a beneficiary is applied for the disabled person’s benefit.
- (3) The income test is met if either—
- (a) the disabled person is entitled to all of the income (if any) arising from any of the property, or
 - (b) if any income arising from any of the property is applied for the benefit of a beneficiary, it is applied for the disabled person’s benefit.
- (4) A settlement is not prevented from being a settlement for the benefit of a disabled person for a tax year just because—
- (a) the trustees have power to apply amounts (of any nature) not exceeding the de minimis threshold for that year,
 - (b) the trustees have the powers of advancement conferred by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958,
 - (c) the trustees have those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by—
 - (i) proviso (a) of section 32(1) of the Trustee Act 1925, or
 - (ii) section 33(1)(a) of the Trustee Act (Northern Ireland) 1958, or
 - (d) the trustees have powers to the same effect as the powers mentioned in paragraph (b) or (c).

- (5) For the purposes of sub-paragraph (4)(a) “the de minimis threshold” means –
- (a) £3,000, or
 - (b) 3% of the maximum value of the settled property during the tax year,
- whichever is the lower.
- (6) In this paragraph “disabled person” has the meaning given by Schedule 1A to the Finance Act 2005.
- (7) If the income from settled property is held for the benefit of a disabled person (“D”) on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), the reference in this paragraph to D’s lifetime is to be read as a reference to the period during which the income is held on trust for D.
- (8) This paragraph applies for the purposes of this Schedule.
- 4 (1) The Treasury may by order –
- (a) specify circumstances in which paragraph 3(4)(a) is, or is not, to apply, and
 - (b) amend the definition of “the de minimis threshold” in paragraph 3(5).
- (2) The order may –
- (a) make different provision for different purposes, and
 - (b) contain transitional and saving provision.
- (3) A statutory containing an order under this paragraph which reduces the annual exempt amount in any case may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

Other settlements

- 5 (1) This paragraph applies if settlement is not a settlement for the benefit of a disabled person for a tax year.
- (2) Section 1K applies in relation to the trustees of the settlement for the year as it applies in relation to an individual for the year but as if the annual exempt amount for the year were one-half of the amount available for the individual for the year.
- (3) This paragraph needs to be read be with –
- (a) paragraph 6 (cases where settlement is qualifying UK settlement comprised in a group), and
 - (b) paragraph 8 (sub-fund settlements).

Special rules for qualifying UK settlements comprised in groups

- 6 (1) This paragraph reduces the annual exempt amount for trustees of a settlement for a tax year if the settlement is one of two or more qualifying UK settlements comprised in a group.
- (2) In the case of a settlement for the benefit of a disabled person for the year, the annual exempt amount for the year is to be reduced so that it is equal to –

- (a) one-tenth of an individual's amount for that year, or
 - (b) the amount resulting from dividing the individual's amount for that year by the number of settlements in the group,

whichever is the greater.
 - (3) In the case of any other settlement, the annual exempt amount for the year is to be reduced so that it is equal to –
 - (a) one-tenth of an individual's amount for that year, or
 - (b) the amount resulting from dividing half of an individual's amount for that year by the number of settlements in the group,

whichever is the greater.
 - (4) In this paragraph “an individual's amount”, in relation to a tax year, means the annual exempt amount applying to an individual for the year under section 1K.
 - (5) For the purposes of this paragraph all qualifying UK settlements in relation to which the same person is the settlor constitute a group.
 - (6) If –
 - (a) two or more persons are settlors in relation to a settlement, and
 - (b) a settlement is consequently comprised in two or more groups comprising different numbers of settlement,

sub-paragraphs (2)(b) and (3)(b) have effect by reference to the largest group.
- 7
- (1) In this Schedule “qualifying UK settlement”, in relation to a tax year, means any settlement in relation to which both of the following conditions are met –
 - (a) the trustees of the settlement are resident in the United Kingdom during any part of the tax year, and
 - (b) the property comprised in the settlement is not held for a charitable or pensions purpose.
 - (2) Property comprised in a settlement is held for a charitable purpose if (and only if) –
 - (a) it is held for charitable purposes only, and
 - (b) it cannot become applicable for other purposes.
 - (3) Property comprised in a settlement is held for a pensions purpose if (and only if) it is held for the purposes of –
 - (a) a registered pension scheme,
 - (b) a superannuation fund to which section 615(3) of the Taxes Act applies, or
 - (c) an occupational pension scheme (within the meaning of section 150(5) of the Finance Act 2004) that is not a registered pension scheme.
 - (4) For this purposes of any provision of this Schedule other than paragraph 8 a settlement is not a qualifying UK settlement if –

- (a) in the case of one for the benefit of a disabled person, it was made before 10 March 1981, or
- (b) in any other case, it was made before 6 June 1978.

Special rules for principal settlements and sub-funds

- 8 (1) This paragraph –
- (a) applies if the trustees of a settlement (“the principal settlement”) have made an election under paragraph 1 of Schedule 4ZA the effect of which is that one or more other settlements (“sub-fund settlements”) are treated as created, and
 - (b) provides for the annual exempt for the trustees of each of the affected settlements to be determined by reference to the assumed annual amount.
- (2) For this purposes of this paragraph –
- (a) the principal settlement and each of the sub-fund settlements is an “affected settlement”, and
 - (b) the “assumed annual amount” means the amount which would be the annual exempt for the trustees of the principal settlement on the assumption that no election had been made under paragraph 1 of Schedule 4ZA.
- (3) The annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount unless there are two or more qualifying UK settlements in the affected settlements.
- (4) In that case, the annual exempt amount for the trustees of each of the affected settlements is the assumed annual amount divided by the number of qualifying UK settlements in the affected settlements.”

16 After Schedule 4 insert –

“SCHEDULE 4AA

RE-BASING FOR NON-RESIDENTS IN RESPECT OF UK LAND ETC HELD ON 5 APRIL
2019

PART 1

INTRODUCTION

- 1 (1) Part 2, 3 or 4 of this Schedule applies if –
- (a) a person disposes of an asset that the person held on 5 April 2019,
 - (b) the disposal is either a direct or indirect disposal of UK land, and
 - (c) the disposal is made by a non-resident or a UK resident in the overseas part of a tax year.
- (2) See also paragraph 16 (non-UK resident company holding UK land becoming resident in UK after 5 April 2019).
- (3) For the purposes of this Schedule –

- (a) a disposal is a “direct disposal of UK land” if it is a disposal of an interest in UK land, and
 - (b) a disposal by a person is an “indirect disposal of UK land” if it is a disposal of an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where the person has a substantial indirect interest in that land.
- (4) For the purposes of this paragraph, the disposal is made by a non-resident or a UK resident in the overseas part of a tax year if it is –
- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) because the asset disposed of is within paragraph (b) or (c) of that subsection,
 - (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c),
 - (c) a disposal on which a gain accrues that falls to be dealt with by section 2B(4), or
 - (d) a disposal of an asset on which a gain does not accrue but which, had a gain accrued, would fall to be dealt with as mentioned in any of the preceding paragraphs of this sub-paragraph.

PART 2

INDIRECT DISPOSALS AND DIRECT DISPOSALS NOT CHARGEABLE BEFORE 6 APRIL 2019

Introduction

- 2 (1) This Part of this Schedule applies to –
- (a) all indirect disposals of UK land,
 - (b) direct disposals of UK land that were not fully residential before 6 April 2019, and
 - (c) direct disposals of UK land by persons who were not chargeable before 6 April 2019.
- (2) For the purposes of this paragraph a direct disposal of UK land made by a person was “not fully residential before 6 April 2019” if in the period –
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 6 April 2015, and
 - (b) ending with 5 April 2019,
- there was no day on which the land to which the disposal relates consisted of or included a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time before 6 April 2019, consisted of or included a building to be constructed or adapted for use as a dwelling, the disposal is taken to be fully residential before that date.

- (4) For the purposes of this paragraph, a disposal is made by a person who was not chargeable before 6 April 2019 if, immediately before that date, the person was –
- (a) a company which was not a closely-held company (see sub-paragraph (5)),
 - (b) a widely-marketed scheme (see sub-paragraph (6)), or
 - (c) a company carrying on life assurance business (as defined in section 56 of the Finance Act 2012) where the interest in UK land was, immediately before that date, held for the purpose of providing benefits to policyholders in the course of that business.
- (5) The question as to whether a company is “a closely-held company” is determined in accordance with Part 1 of Schedule C1; but if –
- (a) the company is a divided company within the meaning of section 14G, and
 - (b) the company would not otherwise be regarded as a closely-held company,
- the company is to be so regarded if the conditions in subsection (3) of that section are met.
- (6) A person is a “widely-marketed scheme” if –
- (a) the person is a scheme within the meaning of section 14F, and
 - (b) condition A or B in that section is met,
- reading the reference in subsection (8)(a) of that section to the non-resident CGT disposal as a reference to the disposal mentioned in paragraph 1(1).
- (7) In determining for the purposes of this paragraph whether or not –
- (a) a person is a closely-held company, or
 - (b) a person is a widely-marketed scheme,
- arrangements are to be ignored if the main purpose of, or one of the main purposes of, them is to secure a tax advantage as a result of the person not being a closely-held company or the person being a widely-marketed scheme.
- (8) In this paragraph –
- (a) “arrangements” and “tax advantage” have the same meaning as in section 16A, and
 - (b) any reference to section 14F, 14G or Schedule C1 are to those provisions as they had effect on 5 April 2019 (before their repeal by Schedule 1 to the Finance Act 2019).

Re-basing to 5 April 2019

- 3 (1) In calculating the gain or loss accruing on the disposal it is be assumed that the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.

- (2) This paragraph has effect subject to any election made by the person under paragraph 4 (retrospective basis of calculation).

Election for retrospective basis of calculation

- 4 (1) The person may make an election under this paragraph for the assumption that the asset is sold and reacquired as mentioned in paragraph 3 not to apply.
- (2) If, in the case of an indirect disposal of UK land –
- (a) a person makes an election under this paragraph, and
 - (b) a loss accrues on the disposal,
- the loss is not an allowable loss.

Calculation of residential property gain if election made under paragraph 4

- 5 (1) This paragraph applies if –
- (a) a person makes an election under paragraph 4 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if –
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period –
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
 - (b) ending with the day before the day on which the disposal is made.

PART 3

DIRECT DISPOSALS OF PRE-APRIL 2015 ASSETS FULLY CHARGEABLE BEFORE 6
APRIL 2019

Introduction

- 6 (1) This Part of this Schedule applies to any direct disposal of UK land if –
- (a) the person held the interest in UK land being disposed of throughout the period beginning with 6 April 2015 and ending with the disposal, and
 - (b) the disposal was fully residential before 6 April 2019.
- (2) For this purpose a direct disposal of UK land made by a person is “fully residential before 6 April 2019” if in the period –
- (a) beginning with 6 April 2015, and
 - (b) ending with 5 April 2019,

every day on which the land to which the disposal relates consisted of a dwelling.

- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.
- (4) This Part of this Schedule does not apply to a direct disposal of UK land made by a person who was not chargeable before 6 April 2019, as determined for the purposes of paragraph 2.

Re-basing to 5 April 2015

- 7 (1) In calculating the gain or loss accruing on the disposal it is assumed that the asset was on 5 April 2015 sold by the person, and immediately reacquired by the person, at its market value on that date.
- (2) This paragraph has effect subject to any election made by the person under either –
 - (a) paragraph 8 (retrospective basis of calculation), or
 - (b) paragraph 9 (straight-line time apportionment),(and an election may be made under only one of those paragraphs).

Election for retrospective basis of calculation

- 8 The person may make an election under this paragraph for the assumption that the asset is sold and reacquired as mentioned in paragraph 7 not to apply.

Election for straight-line time apportionment

- 9 (1) The person may make an election under this paragraph –
 - (a) for the assumption that the asset is sold and reacquired as mentioned in paragraph 7 not to apply, and
 - (b) for the gain or loss accruing on the disposal to be apportioned so that only the post-5 April 2015 proportion of it is treated as accruing on the disposal.
- (2) The “post-5 April 2015 proportion” is the proportion that the days in the post-5 April 2015 period bear to the days in the ownership period.
- (3) For this purpose –

“the post-5 April 2015 period” means the day beginning with 6 April 2015 and ending with the day on which the disposal is made, and

“the ownership period” means the period beginning with the day on which the person acquired the interest disposed of or, if later, 31 March 1982 and ending with the day on which the disposal is made.

Calculation of residential property gain if election made under paragraph 8 or 9

- 10 (1) This paragraph applies if—
- (a) a person makes an election under paragraph 8 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if—
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
- (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
 - (b) ending with the day before the day on which the disposal is made.
- 11 (1) This paragraph applies if—
- (a) a person makes an election under paragraph 9 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if—
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and
 - (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
- (a) beginning with 6 April 2015, and
 - (b) ending with the day before the day on which the disposal is made.

PART 4

DIRECT DISPOSALS OF ASSETS PARTLY CHARGEABLE BEFORE 6 APRIL 2019

Introduction

- 12 (1) This Part of this Schedule applies to any direct disposal of UK land if—
- (a) neither Part 2 nor Part 3 of this Schedule applies to the disposal, and
 - (b) the interest in UK land being disposed of was not a post-April 2015 asset that was fully residential before 6 April 2019.
- (2) For this purpose—

- (a) the interest in UK land being disposed of is a “post-April 2015 asset” if it was acquired by the person after 5 April 2015, and
 - (b) the asset “was fully residential before 6 April 2019” if, in the period beginning with the day on which it was acquired and ending with 5 April 2019, every day on which the land to which the disposal relates consisted of a dwelling.
- (3) If the disposal is of an interest in land subsisting under a contract for the acquisition of land that, at any time in that period, did not consist of a building to be constructed or adapted for use as a dwelling, the disposal is taken to be not fully residential before 6 April 2019.

Re-basing to 5 April 2015 and 5 April 2019

- 13 (1) In calculating the gain or loss accruing on the disposal (“the actual disposal”) it is assumed that –
- (a) the asset was on 5 April 2015 sold by the person, and immediately reacquired by the person, at its market value on that date (but see sub-paragraph (3)), and
 - (b) in addition, the asset was on 5 April 2019 sold by the person, and immediately reacquired by the person, at its market value on that date.
- (2) In the case of the assumed sale on 5 April 2019, the gain or loss accruing on that sale is treated as accruing on the actual disposal (in addition to the gain or loss that actually accrues on the actual disposal).
- (3) If the asset was acquired by the person after 5 April 2015, the assumption that it is sold, and immediately reacquired, on 5 April 2015 is not to apply.
- (4) This paragraph has effect subject to any election made by the person under paragraph 14 (retrospective basis of calculation).

Election for retrospective basis of calculation

- 14 The person may make an election under this paragraph for the assumptions that the asset is sold and reacquired as mentioned in paragraph 13 not to apply.

Calculation of residential property gain if election made under paragraph 14

- 15 (1) This paragraph applies if –
- (a) a person makes an election under paragraph 14 in respect of a disposal on which a gain accrues, and
 - (b) it is necessary to determine, in accordance with Schedule 1B, how much of the gain is a residential property gain.
- (2) Paragraph 2 of Schedule 1B has effect as if –
- (a) sub-paragraphs (5) and (6) of that paragraph were omitted, and

- (b) in that paragraph, “the applicable period” had the definition given by the next sub-paragraph.
- (3) “The applicable period” means the period—
 - (a) beginning with the day on which the person acquired the interest in land being disposed of or, if later, 31 March 1982, and
 - (b) ending with the day before the day on which the disposal is made.

PART 5

MISCELLANEOUS

Companies with UK land becoming UK resident after 5 April 2019

- 16 (1) This paragraph applies in any case where—
 - (a) a company becomes resident in the United Kingdom after 5 April 2019,
 - (b) the company makes a direct or indirect disposal of UK land after that date, and
 - (c) (ignoring this paragraph) Part 2, 3 or 4 of this Schedule would have applied to the disposal but for the fact that it is made at a time when the company is resident in the United Kingdom.
- (2) In that case, Part 2, 3 or 4 of this Schedule applies in relation to the disposal (regardless of paragraph 1(1)(c)).

Persons with UK land ceasing to be UK resident after 5 April 2019

- 17 (1) This paragraph applies in any case where—
 - (a) the trustees of a settlement cease to be resident in the United Kingdom after 5 April 2019, and
 - (b) the trustees make a direct or indirect disposal of UK land after that date.
- (2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.
- (3) The asset that is disposed of is excepted from the application of section 80(2) (deemed disposal of assets on trustees ceasing to be resident in UK).
- 18 (1) This paragraph applies in any case where—
 - (a) a company ceases to be resident in the United Kingdom after 5 April 2019, and
 - (b) the company makes a direct or indirect disposal of UK land after that date.
- (2) Nothing in Part 2, 3 or 4 of this Schedule applies to the disposal.
- (3) The asset that is disposed of is excepted from the application of section 185(2) and (3) (deemed disposal of assets on company ceasing to be resident in UK).

Wasting assets

- 19 (1) This paragraph applies if, in calculating a gain or loss accruing to a person in a case where paragraph 3, 7 or 13 is applicable, it is necessary to make a wasting asset determination in relation to the asset disposed of.
- (2) The assumption that the asset was acquired on a date mentioned in paragraph 3, 7 or 13 (as the case may be) is to be ignored in making that determination.
- (3) In this paragraph “a wasting asset determination” means a determination whether or not an asset is a wasting asset, as defined for the purposes of Chapter 2 of Part 2 of this Act.

Capital allowances

- 20 (1) This paragraph applies if, in calculating a gain or loss accruing to a person in a case where paragraph 3, 7 or 13 is applicable, it is to be assumed that the asset disposed of was acquired on a particular date for a consideration equal to its market value on that date.
- (2) For the purposes of that calculation –
- (a) section 41 (restriction of losses by reference to capital allowances and renewals allowances), and
 - (b) section 47 (wasting assets qualifying for capital allowances),
- are to apply in relation to any allowance made in respect of the expenditure actually incurred in acquiring or providing the asset as if it were made in respect of the expenditure assumed to have been incurred.
- (3) In this paragraph “allowance” means any capital allowance or renewals allowance.

Making of elections

- 21 (1) An election under any provision of this Schedule is irrevocable.
- (2) An election under any provision of this Schedule must (regardless of section 42(2) of the Management Act) be made by being included in a relevant return relating to the disposal.
- (3) The reference here to an election being included in a relevant return includes its being included as a result of an amendment of the return.
- (4) For the purposes of this paragraph a “relevant return” means –
- (a) in the case of a person other than a company, a return under section 8 or 8A of the Management Act, or
 - (b) in the case of a company, a company tax return under Schedule 18 to the Finance Act 1998,
- or, in either case, a return under Schedule 2 to the Finance Act 2019.
- (5) All such adjustments are to be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as

are required to give effect to an election under any provision of this Schedule.

Interpretation

- 22 (1) In this Schedule –
- (a) any reference to an interest in UK land is to be read in accordance with section 1C (and any reference to land is to be read in accordance with that section), and
 - (b) any reference to an asset (other than an interest in UK land) deriving at least 75% of its value from UK land where a person has a substantial indirect interest in that land is to be read in accordance with Schedule 1A.
- (2) If an interest in UK land disposed of by a person results from interests in UK land acquired by the person at different times, the person is regarded for the purposes of this Schedule as having acquired the interest disposed of at the time of the first acquisition.
- (3) For the purposes of this Schedule, whether a building is a dwelling is determined in accordance with Schedule 1B.”
- 17 Omit Schedule 4ZZA (relevant high value disposals: gains and losses).
- 18 Omit Schedule 4ZZB (non-resident CGT disposals: gains and losses).
- 19 Omit Schedule 4ZZC (disposals of residential property interests: gains and losses).

PART 2

CONSEQUENTIAL AMENDMENTS

TMA 1970

- 20 In TMA 1970, after section 8B insert –
- “8C Returns so far as relating to capital gains tax**
- (1) This section applies if –
- (a) the amount of chargeable gains accruing to a person in a tax year does not exceed the annual exempt amount for the year applicable to the person under section 1K of the 1992 Act,
 - (b) the total amount or value of the consideration for all chargeable disposals of assets made by the person in the year does not exceed four times that annual exempt amount,
 - (c) the person is not a remittance-basis individual for the year, and
 - (d) a notice under section 8 or 8A is given to the person requiring information for the purpose of establishing the amount in which the person is chargeable to capital gains tax for the year.
- (2) If the person makes a statement confirming the matters set out in subsection (1)(a) to (c), the statement constitutes sufficient compliance with that requirement.

- (3) For the purposes of this section every disposal is a “chargeable disposal” other than—
 - (a) a disposal on which any gain accruing is not a chargeable gain, and
 - (b) a disposal to which section 58 of the 1992 Act applies (spouses and civil partners).
- (4) For the purposes of this section an individual is “a remittance-basis individual” for a tax year if section 809B of ITA 2007, or section 16ZB of the 1992 Act, applies to the individual for the year.”

TCGA 1992

21 TCGA 1992 is amended as follows.

22 [...]

CTA 2009

23 CTA 2009 is amended as follows.

24 [...]

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISIONS ETC

- 25 (1) The amendments made by this Schedule have effect—
 - (a) for the purposes of capital gains tax, for the tax year 2019-20 and subsequent tax years, and
 - (b) for the purposes of corporation tax, for accounting periods beginning on or after 6 April 2019.
- (2) The amendments made by this Schedule also have effect for the purposes of corporation tax in relation to disposals made on or after 6 April 2019 (whether in their application to accounting periods beginning on, and ending on or after, that date or to later accounting periods).
- 26 (1) This paragraph applies to the following losses—
 - (a) allowable NRCGT losses accruing to a person before 6 April 2019, and
 - (b) ring-fenced ATED-related allowable losses accruing to a person before that date.
- (2) If losses to which this paragraph applies accrued to a company, they are deductible under section 2A(1) of TCGA 1992 so far as not previously deducted from chargeable gains—
 - (a) under section 8(1)(b) of that Act as that provision had effect before the amendments made by this Schedule, or
 - (b) under section 2A(1) of that Act,despite the fact that the losses accrued at a time when, had gains accrued instead, the gains would have been chargeable to capital gains tax.
- (3) If losses to which this paragraph applies accrued to any other person, they are to be treated for the purposes of section 1E of TCGA 1992 as if they accrued on a disposal of assets that were within section 1A(3) of that Act.

- (4) In this paragraph –
- (a) the reference to allowable NRCGT losses is to be read in accordance with Schedule 4ZZB to TCGA 1992 (as that Schedule has effect before its repeal by this Schedule), and
 - (b) the reference to ring-fenced ATED-related allowable losses is to be read in accordance with section 2B of that Act (as that section has effect before its repeal by this Schedule).
- 27 (1) This paragraph applies where this Schedule re-enacts in TCGA 1992 (with or without modification) an enactment contained in TCGA 1992 repealed by this Schedule.
- (2) The repeal and re-enactment does not affect the continuity of the law.
- (3) Any subordinate legislation or other thing which –
- (a) has been made or done, or has effect as if made or done, under or for the purposes of the repealed provision, and
 - (b) is in force or effective on 5 April 2019,
- has effect in relation to times after that date as if made or done under or for the purposes of the corresponding provision of TCGA 1992.
- (4) Any reference (express or implied) in any enactment, instrument or document to a provision of TCGA 1992 is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding repealed provision had effect, a reference to that corresponding provision.
- This sub-paragraph applies only so far as the context permits.
- (5) Any reference (express or implied) in any enactment, instrument or document to a repealed provision of TCGA 1992 is to be read as including, in relation to times, circumstances or purposes in relation to which the corresponding provision has effect, as or (as the context may require) as including a reference to that corresponding provision.
- This sub-paragraph applies only so far as the context permits.
- (6) The generality of this paragraph is not to be affected by specific transitional, transitory or saving provision made elsewhere by this Schedule.
- (7) This paragraph has effect instead of section 17(2) of the Interpretation Act 1978.
- 28 (1) The Treasury may by regulations make provision, in relation to a case in which they consider that a provision of this Schedule changes the effect of the law, for the purpose of returning the effect of the law to what it would have been if this Act had not been passed.
- (2) This power may not be exercised after 5 April 2022.
- (3) Regulations under this paragraph may amend, repeal or revoke any provision made by or under –
- (a) this Schedule or any other provision of this Act, or
 - (b) any other Act.
- (4) Regulations under this paragraph may contain provision having retrospective effect.
- (5) Regulations under this paragraph may contain incidental, supplemental, consequential provision and savings.

- (6) In sub-paragraph (3)(b) “Act” includes an Act of the Scottish Parliament and Northern Ireland legislation.

SCHEDULE 2

Section 6(3)

RETURNS FOR DISPOSALS OF LAND ETC

PART 1

RETURNS AND PAYMENTS ON ACCOUNT: DISPOSALS OF LAND ETC

Disposals to which Schedule applies

- 1 (1) This Schedule applies to—
- (a) any direct or indirect disposal of UK land made, on or after 6 April 2019, by a non-resident or a UK resident in the overseas part of a tax year, and
 - (b) any disposal made, on or after 6 April 2020, on which a CGT residential property gain accrues where the disposal is by a UK resident or by a non-UK resident of a branch or agency asset,
- but this Schedule does not apply to excluded disposals.
- (2) A disposal is an excluded disposal if—
- (a) it is a disposal on which, as a result of any of the no gain/no loss provisions, neither a gain nor a loss accrues,
 - (b) it is the grant of a lease for no premium to a person not connected with the grantor under a bargain made at arm’s length,
 - (c) it is a disposal by a resident of an asset situated outside the United Kingdom qualifying for double taxation relief, or
 - (d) it is a disposal of an asset situated outside the United Kingdom taxed on the remittance basis.
- (3) The Treasury may by regulations amend sub-paragraph (2).
- (4) See also paragraph 6 for a case where, for certain purposes, a disposal is treated as a disposal to which this Schedule applies.

Obligation to deliver a return to officer of Revenue and Customs

- 2 (1) If a person makes a disposal to which this Schedule applies, the person—
- (a) must make a return in respect of the disposal, and
 - (b) must deliver the return to an officer of Revenue and Customs on or before the 30th day following the day of the completion of the disposal,
- but this is subject to the exceptions made by sub-paragraphs (2) and (3).
- (2) If—
- (a) a person makes a disposal to which this Schedule applies as a result of paragraph 1(1)(b), and
 - (b) the person would not be liable under paragraph 3 to pay an amount on account of the person’s liability to tax for the chargeable period concerned,

the person is not required to make or deliver a return under this paragraph in respect of the disposal (but this exception is ignored in determining whether paragraph (b) applies).

- (3) A person is not required to make or deliver a return under this paragraph in respect of a disposal if the filing date for the return would otherwise fall on or after –
- (a) the date on which the person has delivered to an officer of Revenue and Customs the person's ordinary tax return containing a self-assessment that takes account of the disposal, or
 - (b) the date on or before which the person has (by notice) been required to deliver to an officer of Revenue and Customs the person's ordinary tax return for the chargeable period concerned.
- (4) If –
- (a) a person makes two or more disposals to which this Schedule applies, and
 - (b) the disposals are made in the same chargeable period with the same completion date,
- the person must make and deliver a single return with respect to the disposals.

Obligation to make a payment on account

- 3 (1) This paragraph applies if –
- (a) a person is required to make a return under this Schedule in respect of any disposal, and
 - (b) as at the filing date for the return, an amount of tax is notionally chargeable on the person (as determined in accordance with paragraph 4).
- (2) The person is liable to pay that amount on account of the person's liability to tax for the chargeable period concerned so far as that amount has not already become payable as a result of any previous return under this Schedule in respect of a disposal in that period.
- (3) The amount is payable on the filing date for the return.
- (4) In the case of payments on account of a company's liability to corporation tax on chargeable gains, this paragraph has effect in respect of disposals made on or after such day as may be appointed by the Treasury by order (and different days may be appointed for different purposes).
- (5) For cases where there are repayments of amounts previously paid on account of tax, see paragraphs 5 and 6.

Calculation of an amount of tax notionally chargeable

- 4 (1) This paragraph applies for determining the amount of tax (if any) which is notionally chargeable on a person as at the filing date for a return.
- (2) The amount of tax notionally chargeable on the person as at that date is the amount of tax for which the person would be liable for the chargeable period concerned, ignoring, for this purpose, the following disposals –

- (a) disposals which have a completion date later than the completion date of the disposal in respect of which the return is made (but see sub-paragraph (3)), and
 - (b) disposals on which gains accrue but which are not disposals to which this Schedule applies.
- (3) A disposal on which a loss accrues is not to be ignored under sub-paragraph (2)(a) if the time at which the disposal is made (as determined under section 28 of TCGA 1992) falls on or before the completion date of the disposal in respect of which the return is made.

Repayments of amounts previously paid on account of tax

- 5 (1) This paragraph applies if –
- (a) a person makes and delivers a return under this Schedule in respect of any disposal,
 - (b) the person has previously paid amounts on account of the person's liability to tax for the chargeable period concerned, and
 - (c) the amounts exceed the amount of tax notionally chargeable on the person as at the filing date for the return.
- (2) The excess is repayable to the person on the filing date for the return.
- (3) In determining the total amount of payments that have, at any time, been made on account of a person's liability to tax for a chargeable period, account must be taken of amounts already repaid under this paragraph.
- 6 (1) If –
- (a) a person makes a disposal on which an allowable loss accrues, and
 - (b) had a gain accrued instead, the disposal would have been one to which this Schedule applies as a result of paragraph 1(1)(b),
- the person may make and deliver a return under this Schedule in respect of the disposal for the purpose of securing the application of paragraph 5.
- (2) Accordingly, the disposal is treated for that purpose as if it were a disposal to which this Schedule applies.
- (3) This paragraph does not apply in respect of a disposal if the filing date for the return which the person would otherwise be entitled to make and deliver falls on or after the date mentioned in paragraph 2(3)(a) or (b).

Effect of s.144(2) or 144A(2)(b) of TCGA 1992 when asset sold on exercise of option

- 7 (1) This paragraph applies if –
- (a) an option is granted binding the grantor to sell an asset and the grant of the option is a disposal to which this Schedule applies, and
 - (b) the option is then exercised so that, as a result of section 144(2) or 144A(2)(b) of TCGA 1992, the grant of the option is treated as the same transaction as the sale.
- (2) Despite section 144(2) or 144A(2)(b) of TCGA 1992, the grantor remains subject to the obligations under this Schedule in relation to the grant of the option.
- (3) In this paragraph references to sale are to be read in accordance with section 144(6) of TCGA 1992.

Making of reasonable expectations and estimates etc

- 8 (1) If, in determining whether a disposal is one to which this Schedule applies—
- (a) a question arises as to whether a provision of TCGA 1992 applies, and
 - (b) the determination of the question requires account to be taken of times after the completion of the disposal,
- it is to be assumed that the provision does apply if, at the time of the completion of the disposal, it is reasonable to expect that it will apply.
- (2) If, at any time after the completion of the disposal, it becomes reasonable to expect that, by reference to the person's residence, a provision of TCGA 1992 will apply (when, at the time of the completion of the disposal, that was not the case), this Schedule is to have effect—
- (a) as if there were an additional disposal which completed at that subsequent time, and
 - (b) as if the additional disposal were in all other respects a replication of the actual disposal.
- (3) A person is not required to make or deliver a return in respect of the additional disposal mentioned in sub-paragraph (2) if doing so would not result in the person becoming liable to pay an amount on account of the person's liability to tax for the chargeable period concerned.
- (4) If, at any time after the completion of the disposal, it becomes reasonable to conclude that a provision of TCGA 1992 conferring a relief applies (when, at the time of the completion of the disposal, that was not the case), the person may (but need not) assume, for the purposes of this Schedule—
- (a) that there is an additional disposal which completed at that subsequent time, and
 - (b) that the additional disposal is in all other respects a replication of the actual disposal.
- (5) In determining the amount of tax notionally chargeable as at the filing date for a return in respect of the additional disposal mentioned in sub-paragraph (2) or (4), the actual disposal mentioned in that sub-paragraph is ignored.
- (6) If, for the purposes of this Schedule, it is necessary to determine whether (and how) section 1I of TCGA 1992 applies, it is reasonable to make estimates of matters relevant to the application of that section.
- (7) For the purposes of this Schedule it is to be assumed that a person has made a claim or election or given a notice if, at the time of the completion of the disposal in respect of which a return is required to be made under this Schedule, it is reasonable to expect that one will be made or given.

Contents of return

- 9 A return under this Schedule—
- (a) must contain information of a description specified by an officer of Revenue and Customs (and different descriptions of information may be specified for different cases), and
 - (b) must include a declaration by the person making it that the return is, to the best of the person's knowledge, correct and complete.

Interpretation

- 10 (1) In this Part of this Schedule –
- “the chargeable period concerned”, in relation to a disposal, means the chargeable period in which the disposal is made,
 - “the filing date”, in relation to a return in respect of a disposal, means the date on or before which the return in respect of the disposal must be delivered to an officer of Revenue and Customs,
 - “lease” has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,
 - “ordinary tax return” means –
 - (a) in the case of a person other than a company, a return under section 8 or 8A of TMA 1970, and
 - (b) in the case of a company, a company tax return under Schedule 18 to FA 1998,
 - “premium” has the meaning given by paragraph 10 of Schedule 8 to TCGA 1992,
 - “tax” means capital gains tax or corporation tax on chargeable gains.
- (2) In this Part of this Schedule the “completion” of a disposal is regarded as occurring –
- (a) at the time of the disposal, or
 - (b) if the disposal is under a contract which is completed by a conveyance, transfer or other instrument, at the time when the instrument takes effect.
- (3) In this Part of this Schedule any reference to a direct or indirect disposal of UK land which is made by a non-resident or a UK resident in the overseas part of a tax year is to –
- (a) a disposal on which a gain accrues that falls to be dealt with by section 1A(3) of TCGA 1992 because the asset disposed of is within paragraph (b) or (c) of that subsection,
 - (b) a disposal on which a gain accrues that falls to be dealt with by section 1A(1) of that Act in accordance with section 1G(2) because the asset disposed of is within section 1A(3)(b) or (c),
 - (c) a disposal on which a gain accrues that falls to be dealt with by section 2B(4) of that Act, or
 - (d) a disposal of an asset on which a gain does not accrue but which, had a gain accrued, would fall to be dealt with as mentioned in any of the preceding paragraphs of this sub-paragraph.
- (4) In this Part of this Schedule any reference to a disposal on which a CGT residential property gain accrues where the disposal is –
- (a) by a UK resident, or
 - (b) by a non-UK resident of a branch or agency asset,
- is to a disposal on which a residential property gain accrues that falls to be dealt with by section 1A(1) or (3)(a) of TCGA 1992.
- (5) For this purpose –
- (a) the reference to a gain falling to be dealt with by section 1A(1) of TCGA 1992 does not include a gain on a disposal within sub-paragraph (3)(b), and

- (b) “residential property gain” has the meaning given by Schedule 1B to TCGA 1992.
- (6) For the purposes of this Part of this Schedule a disposal “qualifies for double taxation relief” if, at the time of the completion of the disposal, it is reasonable to conclude that a chargeable gain accruing on the disposal will be relieved (to any extent) as a result of Part 2 of TIOPA 2010.
- (7) For the purposes of this Part of this Schedule a disposal is “taxed on the remittance basis” if it is one on which gains accrue that are treated, as a result of paragraph 1 of Schedule 1 to TCGA 1992, as accruing when they are remitted to the United Kingdom.
- (8) This Part of this Schedule has effect as if it were included in TCGA 1992.

PART 2

NOTIFICATION OF CHARGEABLE AMOUNTS, AMENDMENTS OF RETURNS, ENQUIRIES ETC

Requirement to notify HMRC of amounts chargeable to tax

- 11 (1) A person is not required to give a notice under the notification of liability provisions merely by reference to a chargeable gain accruing on a disposal if –
- (a) the person delivers a return under this Schedule in respect of the disposal, and
 - (b) the return is delivered before the end of the notification period within the meaning of those provisions.
- (2) But sub-paragraph (1) does not apply if the amount of tax notionally chargeable on the person as at the filing date for the return (as determined in accordance with paragraph 4) is less than the amount of tax for which the person is liable for the chargeable period concerned.
- (3) In this paragraph “the notification of liability provisions” means –
- (a) in the case of a person other than a company, section 7 of TMA 1970, and
 - (b) in the case of a company, paragraph 2 of Schedule 18 to FA 1998.

Amendments of returns

- 12 (1) The amendment provisions applicable to ordinary tax returns apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject to the following limitation.
- (2) An amendment is permitted only so far as –
- (a) the return under this Schedule could, when originally delivered, have included the amendment by reference to things already done, and
 - (b) reasons are given by the person for making the amendment.
- (3) For the purposes of this paragraph “the amendment provisions applicable to ordinary tax returns” means –
- (a) in the case of a person other than a company, sections 9ZA and 9ZB of TMA 1970, and

- (b) in the case of a company, paragraphs 15 and 16 of Schedule 18 to FA 1998.

Enquiries

- 13 (1) The enquiry provisions apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject as follows.
- (2) If the person is required to deliver an ordinary tax return, the time allowed for giving a notice of enquiry into a return under this Schedule is the same as that allowed for giving a notice of enquiry into the ordinary tax return.
- (3) If the person is not required to deliver an ordinary tax return, the time allowed for giving a notice of enquiry into a return under this Schedule is determined on the assumption that the person was required to deliver an ordinary tax return and that it was delivered at the later of –
- (a) the last day for delivery of ordinary tax returns under the applicable provision, and
- (b) the day on which the return under this Schedule was delivered.
- (4) If there is an enquiry into a return under this Schedule –
- (a) nothing in paragraph 5 requires any repayment to be made before the day on which the enquiry is completed, but
- (b) the officer of Revenue and Customs concerned may, at any time before that day, make the repayment, on a provisional basis, to such extent as the officer thinks fit.
- (5) If –
- (a) a notice of enquiry (“the main enquiry notice”) is given at any time into an ordinary tax return for a chargeable period, and
- (b) a notice of enquiry into a return under this Schedule has not been given, on or before that time, in respect of a disposal to which this Schedule applies which is made in that period,
- the main enquiry notice is also taken to constitute a notice of enquiry into the return under this Schedule in respect of the disposal.
- (6) If –
- (a) a final closure notice (“the main closure notice”) is given at any time which completes an enquiry into an ordinary tax return for a chargeable period, and
- (b) a final closure notice of an enquiry into a return under this Schedule has not been given, on or before that time, in respect of a disposal to which this Schedule applies which is made in that period,
- the main closure notice is also taken to constitute a final closure notice of the enquiry into the return under this Schedule in respect of the disposal.
- (7) For the purposes of this paragraph “the enquiry provisions” means –
- (a) in the case of a person other than a company, sections 9A and 28A of TMA 1970 and the other provisions of that Act so far as they relate to those sections, and
- (b) in the case of a company, paragraphs 24 and 32 of Schedule 18 to FA 1998 and the other provisions of that Schedule so far as they relate to those paragraphs.

Amendments of returns during enquiry etc

- 14 (1) For other provisions which, as a result of paragraph 12 and 13, are relevant to returns made by a person under this Schedule, see –
- (a) in the case of a person other than a company, sections 9B and 9C of TMA 1970, and
 - (b) in the case of a company, paragraphs 30 and 31 of Schedule 18 to FA 1998.
- (2) In the case of Schedule 3ZA to TMA 1970 (date by which payment to be made after amendment or correction of self-assessment) –
- (a) paragraph 1(2) of that Schedule has effect as if the reference to section 59B(3) and (4) of TMA 1970 included a reference to paragraph 4 of this Schedule, and
 - (b) the other provisions of that Schedule have effect in accordance with the provision made elsewhere by this Part of this Schedule (see, in particular, paragraph 17(2)).
- (3) For provisions of that Schedule relevant to returns made by a person under this Schedule, see –
- (a) paragraph 2 (amendment of return by taxpayer),
 - (b) paragraph 3 (correction of return by HMRC),
 - (c) paragraph 4 (jeopardy amendment by HMRC), and
 - (d) paragraph 5 (amendment of return by closure notice).

Revenue determinations

- 15 (1) The Revenue determination provisions applicable to ordinary tax returns apply in relation to returns made by a person under this Schedule as they apply in relation to ordinary tax returns, but subject to the following modifications.
- (2) The modifications are that –
- (a) any reference to being given a notice is to be read as a reference to being required to deliver a return under this Schedule,
 - (b) any reference to the filing date is to be read as a reference to the filing date within the meaning of this Part of this Schedule (but see paragraph (e)),
 - (c) any reference to the amounts to be determined is to be read as a reference to the amount of tax which is notionally chargeable on a person as at the filing date for a return under this Schedule,
 - (d) any reference in any enactment to the purposes for which a determination is to have effect is to be ignored, and
 - (e) the determination may not be made after the end of the period of 3 years beginning with the last day for delivery of an ordinary tax return under the applicable provision for the chargeable period concerned.
- (3) If –
- (a) a determination is made as a result of this paragraph, but
 - (b) it is then superseded by a return made under this Schedule,
- any amount which, as a result of the supersession, is payable or repayable under paragraph 3 or 5 is to be payable or repayable on the filing date for the return.

- (4) For the purposes of this paragraph “the Revenue determination provisions” means –
- (a) in the case of a person other than a company, section 28C of TMA 1970, and
 - (b) in the case of a company, paragraph 36 of Schedule 18 to FA 1998.

Discovery assessments

- 16 (1) A return made by a person under this Schedule is treated for the purposes of the discovery provisions as if it were an assessment required to be included as part of the person’s ordinary tax return (whether or not the person is actually required to deliver an ordinary tax return).
- (2) References in the discovery provisions to an ordinary tax return for a chargeable period include a return under this Schedule made in respect of a disposal for the chargeable period concerned.
- (3) For the purposes of this paragraph “the discovery provisions” means –
- (a) in the case of a person other than a company, section 29 of TMA 1970 and the other provisions of that Act relating to that section, and
 - (b) in the case of a company, paragraph 41(1) of Schedule 18 to FA 1998 and the other provisions of that Schedule relating to that subparagraph.

Interpretation

- 17 (1) Expressions have the same meaning in this Part of this Schedule as they have in Part 1 of this Schedule (see paragraph 10).
- (2) A return made by a person under this Schedule is to be treated for the purposes of –
- (a) any provision made by or under TMA 1970, or
 - (b) any provision made by or under Schedule 18 to FA 1998,
- as if it contained a self-assessment of an amount of tax.

PART 3

CONSEQUENTIAL AMENDMENTS

Amendments of TMA 1970

- 18 (1) TMA 1970 is amended as follows.
- (2) Omit section 7A (disregard of certain NRCGT gains for purposes of section 7.)
- (3) Omit sections 12ZA to 12ZN (NRCGT returns) and the italic heading before those sections.
- (4) In section 28A (completion of enquiry into personal or trustee return) –
- (a) in subsection (1), omit “or 12ZM”, and
 - (b) in the heading, omit “or NRCGT return”.
- (5) Omit section 28G (determination of amount notionally chargeable where no NRCGT return delivered).

-
- (6) In section 29 (assessment where loss of tax discovered), omit subsection (7)(a)(ia).
- (7) Omit section 29A (non-resident CGT disposals: determination of amount which should have been assessed).
- (8) In section 34 (ordinary time limit of 4 years), omit subsection (1A).
- (9) In section 42 (procedure for making claims etc), in subsection (11)(a) –
- (a) omit “12ZB”, and
 - (b) after “12AA of this Act” insert “or a return under Schedule 2 to the Finance Act 2019”.
- (10) After section 59A insert –
- “59AZA Payments on account of capital gains tax: disposals of land etc**
- For provision requiring payments to be made on account of capital gains tax, see Schedule 2 to the Finance Act 2019.”
- (11) Omit section 59AA (non-resident CGT disposals: payments on account of capital gains tax).
- (12) In section 59B (payment of income tax and capital gains tax: assessments other than simple assessments) –
- (a) in subsection (1)(b), for “or 59AA of this Act” substitute “of this Act or under Schedule 2 to the Finance Act 2019”, and
 - (b) omit subsection (2A).
- (13) In section 59BA (payment of income tax and capital gains tax: simple assessments), in subsection (1)(b), for “or 59AA of this Act” substitute “of this Act or under Schedule 2 to the Finance Act 2019”.
- (14) After section 59E insert –
- “59EA Payments on account of corporation tax: disposals by non-residents of land etc**
- For provision requiring payments to be made by companies not resident in the United Kingdom on account of corporation tax, see Schedule 2 to the Finance Act 2019.”
- (15) In section 107A (relevant trustees), in subsection (2)(b) –
- (a) omit “, 59AA”, and
 - (b) after “59B of this Act” insert “or under Schedule 2 to the Finance Act 2019”.
- (16) In section 118 (interpretation), omit the definition of “NRCGT return”.
- (17) In Schedule 3ZA (date by which payment to be made after amendment or correction of self-assessment) –
- (a) in paragraph 1(1), omit “or an advance self-assessment (see section 12ZE(1))”,
 - (b) in paragraph 1(2), omit “59AA(2) or”,
 - (c) in paragraph 2(1), omit “or an amendment of an advance self-assessment under section 12K (amendment of NRCGT return by taxpayer)”.

- (d) in paragraph 2(3), omit “or 12ZN(3)” and “or advance self-assessment”,
- (e) in paragraph 3(1), omit “or 12ZL” and “or NRCGT return”, and
- (f) in paragraph 5(1), omit “or advance self-assessment”.

Amendments of other Acts

- 19 (1) TCGA 1992 is amended as follows.
- (2) In section 222A (determination of main residence: disposals by non-residents) –
- (a) in subsection (6)(a), for “the NRCGT return” substitute “the return under Schedule 2 to the Finance Act 2019”, and
 - (b) in subsection (7)(a), for “an NRCGT return” substitute “a return under Schedule 2 to the Finance Act 2019”.
- (3) In section 223A (amount of relief: disposals by non-residents), in subsection (3)(b), for “the NRCGT return” substitute “the return under Schedule 2 to the Finance Act 2019”.
- 20 (1) Schedule 24 to FA 2007 (penalties for errors) is amended as follows.
- (2) In paragraph 1(4) –
- (a) in the entry relating to capital gains tax, in the second column, for “section 12ZB of TMA 1970 (NRCGT return)” substitute “Schedule 2 to FA 2019”, and
 - (b) in the first entry relating to corporation tax, in the second column, after “Schedule 18 to FA 1998” insert “or return under Schedule 2 to FA 2019”.
- (3) In paragraph 21C, for “section 59AA(2) of TMA 1970 (non-resident CGT disposals: payments on account of capital gains tax)” substitute “Schedule 2 to FA 2019”.
- 21 (1) Schedule 36 to FA 2008 (information and inspection powers) is amended as follows.
- (2) For paragraph 21ZA and the italic heading before it substitute –
- “Application of paragraph 21 in case of returns under Schedule 2 to FA 2019*
- 21ZA(1) For the purposes of paragraph 21 any reference to the making by a person of –
- (a) a return under section 8 or 8A of TMA 1970, or
 - (b) a return under paragraph 3 of Schedule 18 to FA 1998,
- includes the making by the person of a return under Schedule 2 to FA 2019.
- (2) In the application of paragraph 21 in relation to a return under Schedule 2 to FA 2019, the return is to be treated as if it required a self-assessment of an amount of tax.
- (3) For the purposes of paragraph 21, the definition of “the notice of enquiry” in its application to a return under Schedule 2 to FA 2019 needs to be read in the light of the provision made by paragraph 13 of that Schedule.”

- 22 (1) Schedule 55 to FA 2009 (penalty for failure to make returns etc) is amended as follows.
- (2) In the table in paragraph 1(5), in item 2A, in the third column, for “NRCGT return under section 12ZB of TMA 1970” substitute “Return under Schedule 2 to FA 2019 (other than one made under paragraph 6 of that Schedule)”.
- (3) In the table in paragraph 1(5), in the third column, after item 7 insert –

“7A	Corporation tax	Return under Schedule 2 to FA 2019”
-----	-----------------	-------------------------------------

- (4) Schedule 55 to FA 2009, as amended by this paragraph, is taken to have come into force for the purposes of returns under this Schedule on the day on which this Act is passed.

Late payment interest

- 23 So far as relating to amounts that are payable (or repayable) in respect of capital gains tax as a result of a requirement under this Schedule, sections 101 to 103 of FA 2009 (late payment interest on sums due to HMRC etc) come into force on 6 April 2019.

Commencement

- 24 (1) Subject as follows, the amendments made by this Part of this Schedule have effect in relation to disposals made on or after 6 April 2019.
- (2) Section 12ZG of TMA 1970 (cases where advance self-assessment not required) continues to have effect in relation to disposals made on or after that date but before 6 April 2020; and that section has effect in relation to those disposals –
- (a) as if references to an NRCGT return were to a return under this Schedule, and
- (b) as if references to section 12ZE(1) of TMA 1970 were to paragraph 3 of this Schedule.
- (3) The amendment made by paragraph 18(14) has effect in accordance with provision made by an order under paragraph 3(4).

SCHEDULE 3

Section 7

NON-UK RESIDENT COMPANIES CARRYING ON UK PROPERTY BUSINESSES ETC

PART 1

EXTENSION OF SCOPE OF CHARGE

- 1 Section 5 of CTA 2009 (territorial scope of charge to corporation tax) is amended as follows.
- 2 In subsection (2) (circumstances in which non-UK resident company is within the charge) –
- (a) omit “or” at the end of paragraph (a), and

- (b) after paragraph (b) insert “,
 - (c) it carries on a UK property business, or
 - (d) it has other UK property income.”
- 3 After subsection (3) insert –
 - “(3A) A non-UK resident company which carries on a UK property business is chargeable to corporation tax on income on all its profits that are –
 - (a) profits of that business, or
 - (b) profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of that business.
 - (3B) A non-UK resident company which has other UK property income is chargeable to corporation tax on income on all its profits that –
 - (a) consist of that income, or
 - (b) are profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of enabling it to generate that income.”
- 4 In subsection (4) for “(2A) and (3)” substitute “and (2A) to (3B)”.
5 After subsection (4) insert –
 - “(5) In this Part “other UK property income” means income dealt with by any of the following Chapters of Part 4 –
 - (a) Chapter 7 (rent receivable in connection with a UK section 39(4) concern);
 - (b) Chapter 8 (rent receivable for UK electric-line wayleaves);
 - (c) Chapter 9 (post-cessation receipts arising from a UK property business).”

PART 2

SUPPLEMENTARY & CONSEQUENTIAL AMENDMENTS

ITTOIA 2005

- 6 In Part 3 of ITTOIA 2005 (property businesses), omit section 362 (effect of company starting or ceasing to be within charge to income tax in respect of UK property business).

ITA 2007

- 7 In section 5 of ITA 2007 (income tax and companies) in paragraph (b) for the words from “the income” to the end substitute “it is chargeable to corporation tax in respect of the income, or would be so chargeable but for an exemption.”

CTA 2009

- 8 CTA 2009 is amended as follows.
- 9 In section 3 (exclusion of charge to income tax) in subsection (1)(b) (non-UK resident companies) for the words from “and –” to the end substitute “and

- it is chargeable to corporation tax in respect of the income, or would be so chargeable but for an exemption”.
- 10 In section 18A (exemption for profits or losses of foreign permanent establishments) in subsection (2A) for the words from “, or would” to the end substitute “or, if the company were non-UK resident, would be –
- (a) profits or losses of the company’s trade of dealing in or developing UK land (see section 5B),
 - (b) profits or losses of the company’s UK property business,
 - (c) profits consisting of the company’s other UK property income, or
 - (d) profits or losses arising from loan relationships or derivative contracts that the company is a party to for the purposes of its UK property business or for the purposes of enabling it to generate other UK property income.”
- 11 In section 19 (chargeable profits) for subsection (2A) substitute –
- “(2A) But the company’s “chargeable profits” do not include –
- (a) profits of a trade of dealing in or developing UK land (see section 5B),
 - (b) profits of a UK property business,
 - (c) profits consisting of other UK property income, or
 - (d) profits arising from loan relationships or derivative contracts that the company is a party to for the purposes of its UK property business or for the purposes of enabling it to generate other UK property income.”
- 12 In section 333 (company with loan relationship ceasing to be UK resident) in subsection (2) –
- (a) after “owed” insert “ –
 - (a) ”, and
 - (b) at the end insert “,
 - (b) for the purposes of the company’s trade of dealing in or developing UK land,
 - (c) for the purposes of the company’s UK property business, or
 - (d) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(5)).”
- 13 (1) Section 334 (non-UK resident company ceasing to hold loan relationship for UK permanent establishment) is amended as follows.
- (2) In the heading, for “UK permanent establishment” substitute “section 333(2) purposes”.
- (3) In subsection (1) for the words from “the purposes” to “United Kingdom” substitute “section 333(2) purposes”.
- (4) In subsection (3)(b) for “the purposes of the permanent establishment” substitute “section 333(2) purposes”.

- (5) After subsection (4) insert –
- “(5) An asset or liability ceases to be held or owed for section 333(2) purposes if and in so far as –
- (a) it ceases to be held or owed for any purposes mentioned in section 333(2), and
 - (b) on doing so, it does not begin or continue to be held or owed for any of the other purposes so mentioned.”
- 14 In section 609 (company with derivative contract ceasing to be UK resident) in subsection (2) –
- (a) after “owed” insert “ –
 - (a) ”, and
 - (b) at the end insert “,
 - (b) for the purposes of the company’s trade of dealing in or developing UK land,
 - (c) for the purposes of the company’s UK property business, or
 - (d) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(5)).”
- 15 (1) Section 610 (non-UK resident company ceasing to hold derivative contract for UK permanent establishment) is amended as follows.
- (2) In the heading, for “UK permanent establishment” substitute “section 609(2) purposes”.
- (3) In subsection (1) for the words from “the purposes” to “United Kingdom” substitute “section 609(2) purposes”.
- (4) In subsection (3)(b) for “the purposes of the permanent establishment” substitute “section 609(2) purposes”.
- (5) After subsection (4) insert –
- “(5) A right or liability ceases to be held or owed for section 609(2) purposes if and in so far as –
- (a) it ceases to be held or owed for any purposes mentioned in section 609(2), and
 - (b) on doing so, it does not begin or continue to be held or owed for any of the other purposes so mentioned.”
- 16 (1) Section 697 (derivative contracts with non-UK residents: exceptions) is amended as follows.
- (2) For subsection (2) substitute –
- “(2) Section 696 does not apply if NR –
- (a) is chargeable to corporation tax or income tax in respect of income arising from the derivative contract (or would be if there were any such income), and
 - (b) is a party to the derivative contract otherwise than as agent or nominee of another person.”
- (3) In subsection (6) omit the definition of “relevant entity” and “, and” immediately before it.

- 17 In section 746 (“non-trading credits” and “non-trading debits”) in subsection (2) for paragraph (b) substitute –
 “(b) section 793A (effect of election to reallocate charge within group),”.
- 18 (1) Section 792 (reallocation of charge within group) is amended as follows.
 (2) Omit subsection (5).
 (3) In subsection (6) for “makes further provision” substitute “sets out further requirements”.
 (4) After subsection (6) insert –
 “(6A) Section 793A makes provision about the effect of elections under this section.”
 (5) In subsection (8) after “793” insert “, 793A”.
- 19 (1) Section 793 (further requirements about elections under section 792) is amended as follows.
 (2) In subsection (1) for “or (3)” substitute “, (3), (3A) or (3B)”.
 (3) In subsection (3), in the words before paragraph (a), after “if” insert “subsection (2) does not apply and”
 (4) After subsection (3) insert –
 “(3A) This subsection applies if neither of subsections (2) and (3) apply and at the relevant time –
 (a) B carried on a trade of dealing in or developing UK land, and
 (b) B was not exempt from corporation tax in respect of profits of that trade because of arrangements that have effect under section 2(1) of TIOPA 2010.
 (3B) This subsection applies if none of subsections (2), (3) and (3A) apply and at the relevant time –
 (a) B carried on a UK property business, and
 (b) B was not exempt from corporation tax in respect of the income of its UK property business because of arrangements that have effect under section 2(1) of TIOPA 2010.”
- 20 After section 793 insert –

“793A Effect of election under section 792

- (1) This section applies if an election is made under section 792.
- (2) If subsection (2) of section 793 applies to B the gain, or the part specified in the election, is treated as if it had accrued to B at the relevant time as a non-trading credit for the purposes of Chapter 6 (how credits and debits are given effect).
- (3) If subsection (3) of section 793 applies to B the gain, or the part specified in the election, is treated –
 (a) as if it had accrued to B at the relevant time as a non-trading credit for the purposes of Chapter 6, and
 (b) as if it had accrued in respect of an asset held for the purposes of a permanent establishment of B in the United Kingdom.

- (4) If subsection (3A) of section 793 applies to B the gain, or the part specified in the election, is treated for the purposes of Chapter 6 as if it had accrued to B at the relevant time as a credit in respect of an asset held for the purposes of B's trade of dealing in or developing UK land.
 - (5) If subsection (3B) of section 793 applies to B the gain, or the part specified in the election, is treated for the purposes of Chapter 6 as if it had accrued to B at the relevant time as a credit in respect of an asset held for the purposes of B's UK property business."
- 21 In section 795 (recovery of charge from another group company or controlling director) in subsection (4) omit the words from "but" to "establishment".
- 22 In section 863 (asset becoming chargeable intangible asset), in subsection (1)(b)–
- (a) after "held" insert "–
 - (i) ", and
 - (b) after "establishment," insert–
 - “(ii) for the purposes of a trade carried on by the company of dealing in or developing UK land,
 - (iii) for the purposes of a UK property business carried on by the company, or
 - (iv) for the purposes of enabling the company to generate other UK property income (within the meaning given by section 5(5)),”.

CTA 2010

- 23 CTA 2010 is amended as follows.
- 24 (1) Section 9 (non-UK resident company preparing return of accounts in currency other than sterling) is amended as follows.
- (2) For subsection (1) substitute–
 - “(1) This section applies if a non-UK resident company within the charge to corporation tax prepares its return of accounts for a period of account in a currency other than sterling (the “accounts currency”).”
 - (3) In subsection (4) omit from “of its” to “United Kingdom”.
- 25 In section 107 (group relief: restriction on losses etc surrenderable by non-UK resident) in subsection (1) for “company” (in the second place it occurs) to the end substitute “company within the charge to corporation tax”.
- 26 In section 134 (group relief: meaning of “UK related” company) in paragraph (b) for the words from “carrying on” to the end substitute “within the charge to corporation tax”.
- 27 In section 188BI (group relief for carried-forward losses: restriction on surrender of losses made when non-UK resident) in subsection (1) for “company” (in the second place it occurs) to the end substitute “company within the charge to corporation tax”.

- 28 In section 188CJ (group relief for carried-forward losses: meaning of “UK related” company) in paragraph (b) for the words from “carrying on” to the end substitute “within the charge to corporation tax”.

PART 3

COMMENCEMENT AND TRANSITIONAL PROVISIONS

Commencement

- 29 This Schedule comes into force on 6 April 2020 (“the commencement date”).

Transitional provisions

- 30 Where a period of account of a company begins before and ends on or after the commencement date, it is to be assumed for the purposes of the amendments made by this Schedule –
- (a) that the period (“the straddling period of account”) consists of two separate periods of account –
 - (i) the first beginning with the date on which the straddling period of account begins and ending with 5th April 2020, and
 - (ii) the second beginning with the commencement date and ending with the date on which the straddling period of account ends, and
 - (b) that separate accounts have been drawn up for each of those separate periods in accordance with generally accepted accounting practice.
- 31 (1) This paragraph applies if –
- (a) in a tax year ending before the commencement date a company makes a loss in a UK property business that is within the charge to income tax,
 - (b) relief for the purposes of income tax is not given to the company for an amount of the loss (“the unrelieved amount”), and
 - (c) on the commencement date the UK property business ceases to be within the charge to income tax and comes within the charge to corporation tax as a result of section 5(3A) of CTA 2009.
- (2) Relief for the purposes of corporation tax is given to the company under this paragraph for the unrelieved amount.
- (3) For this purpose –
- (a) the unrelieved amount is carried forward to post-commencement accounting periods of the company (for so long as the company continues to carry on the UK property business), and
 - (b) the profits of the UK property business of any such accounting period are reduced by the unrelieved amount so far as that amount cannot be used under this paragraph to reduce the profits of an earlier period.
- (4) In this paragraph “post-commencement accounting period” means an accounting period ending after the commencement date.
- 32 (1) This paragraph applies if –
- (a) in the tax year 2019-20 a non-UK resident company is a partner in a firm which –

- (i) carries on a trade, and
 - (ii) has untaxed income or relievable losses from a UK property business, and
 - (b) accordingly, the company is treated under section 854 of ITTOIA 2005 as having a notional business for the tax year.
 - (2) The basis period for the notional business for the tax year is taken to end with 5th April in that tax year (if it would not otherwise do so).
 - (3) In this paragraph “untaxed income” has the meaning given by section 854(6) of ITTOIA 2005.
- 33 (1) This paragraph applies for an accounting period (“the loss period”) of a non-UK resident company beginning on or after the commencement date if –
- (a) apart from this paragraph, a loss arising in connection with a derivative contract of the company would by reason of this Schedule fall to be brought into account in accordance with Part 7 of CTA 2009, and
 - (b) the loss is wholly or partly referable to a time before the commencement date when the derivative contract was not subject to corporation tax.
- (2) The amounts brought into account for the loss period in accordance with Part 7 of CTA 2009 must be such as to secure that none of the loss referable to that time is treated as arising in the loss period or any other accounting period of the company.
 - (3) For the purposes of this section a loss is referable to a time when a contract is not subject to corporation tax so far as, at the time to which the loss is referable, the company would not have been chargeable to corporation tax on any profits arising from the contract.
 - (4) If the company was not a party to the contract at the time to which the loss is referable, subparagraph (3) applies as if the reference to the company were a reference to the person who at that time was in the same position as respects the contract as is subsequently held by the company.
 - (5) An amount which would be brought into account in accordance with Part 7 of CTA 2009 in respect of a derivative contract apart from this paragraph is treated for the purposes of section 699(1) of CTA 2009 (amounts brought into account under Part 7 excluded from being otherwise brought into account) as if it were so brought into account.
 - (6) Accordingly, that amount must not be brought into account for corporation tax purposes as respects the derivative contract either in accordance with Part 7 of CTA 2009 or otherwise.
- 34 (1) Where –
- (a) before the commencement date a company is chargeable to income tax on the profits of its UK property business,
 - (b) on the commencement date the company becomes chargeable to corporation tax on the profits arising from a derivative contract that it is a party to for the purposes of its UK property business, and
 - (c) there is a tax asymmetry in relation to the derivative contract,
- the amounts to be brought into account in respect of the derivative contract for the purposes of Part 7 of CTA 2009 are to be adjusted in such manner as is just and reasonable having regard to the tax asymmetry.

- (2) For the purposes of subparagraph (1) there is a tax asymmetry in relation to the derivative contract if –
- (a) fair value amounts arising in relation to the derivative contract are brought into account in calculating for the purposes of income tax the profits or losses of the company’s UK property business for tax years ending before the commencement date, but
 - (b) by reason of regulation 9 of the Disregard Regulations, fair value amounts arising in relation to the contract are not brought into account for the purposes of Part 7 of CTA 2009 for accounting periods of the company beginning on or after the commencement date.
- (3) In this paragraph –
- “fair value amount” means an amount representing a change in the fair value of a derivative contract which is recognised in determining a company’s profit or loss for a period of account in accordance with generally accepted accounting practice;
 - “the Disregard Regulations” means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256).
- 35 (1) This paragraph applies if –
- (a) an amount of a capital nature representing a change in the fair value of a derivative contract is recognised in determining a company’s profit or loss for a period of account beginning before the commencement date, and
 - (b) the amount would have been brought into account in calculating for the purposes of income tax the profits or losses of the company’s UK property business for a tax year ending before the commencement date but for the fact that it is an amount of a capital nature.
- (2) In determining the amounts the company is to bring into account for the purposes of Part 7 of CTA 2009 for an accounting period beginning on or after the commencement date –
- (a) the derivative contract is to be treated as being one in relation to which an election has effect under regulation 6A of the Disregard Regulations, and
 - (b) if regulation 7 or 8 of those Regulations applies in relation to the derivative contract, the amount referred to in subparagraph (1) is to be treated for the purposes of regulation 10 of those Regulations as being an amount that has previously been excluded from being brought into account for the purposes of Part 7 of CTA 2009 by regulation 7 or 8 (as the case may be).
- (3) In this paragraph –
- “the Disregard Regulations” means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256);
 - “recognised” means recognised in accordance with generally accepted accounting practice.
- 36 (1) This paragraph applies if on the commencement date –
- (a) an asset held by a non-UK resident company for the purposes of its UK property business becomes a chargeable intangible asset in

- relation to the company by reason of the business coming within the charge to corporation tax, or
- (b) an asset held by a non-UK resident company for the purposes of enabling it to generate other UK property income becomes a chargeable intangible asset in relation to the company by reason of that income coming within the charge to corporation tax.
- (2) Part 8 of CTA 2009 applies as if –
- (a) the company had acquired the asset immediately on the commencement date, and
 - (b) had done so for its accounting value at that time.
- (3) In this paragraph –
- “accounting value” and “chargeable intangible asset” have the meaning they have in Part 8 of CTA 2009, and
 - “other UK property income” has the meaning it has in Part 2 of CTA 2009.
- 37 (1) An election under section 792 of CTA 2009 (reallocation of degrouping charge within a group) may not be made if –
- (a) subsection (3A) of section 793 applies to B, and
 - (b) the relevant time is before 5 July 2016.
- (2) An election under section 792 of CTA 2009 may not be made if –
- (a) subsection (3B) of section 793 applies to B, and
 - (b) the relevant time is before the commencement date.
- (3) In this paragraph references to “B” and “the relevant time” must be read in accordance with section 792 of CTA 2009.
- 38 (1) This paragraph applies if –
- (a) before the commencement date a company incurs expenditure for the purposes of a UK property business it is about to carry on,
 - (b) the company begins to carry on the business on or after the commencement date, and
 - (c) when the company begins to carry on the business it is non-UK resident.
- (2) Subsection (7) of section 1147 of CTA 2009 (which enables a company to obtain relief for expenditure on contaminated or derelict land incurred prior to carrying on a UK property business) does not apply in relation to the expenditure.

SCHEDULE 4

Section 8

CORPORATION TAX RELIEF FOR CARRIED-FORWARD LOSSES

Restrictions on deductions from profits

- 1 CTA 2010 is amended as follows.
- 2 In section 188DD (group relief for carried-forward losses: claimant company’s relevant maximum for overlapping period) –

- (a) in subsection (3) for “269ZD(5)” (in both places) substitute “269ZFA”,
and
(b) omit subsection (4).
- 3 In section 188ED (group relief for carried-forward losses: claimant company’s relevant maximum for overlapping period) –
(a) in subsection (3) for “269ZD(5)” (in both places) substitute “269ZFA”,
(b) omit subsection (4), and
(c) in subsection (5) for “(4)” substitute “(3)”.
- 4 In section 269ZB (restriction on deductions from trading profits) in subsection (8) for paragraph (b) substitute –
“(b) any amount specified for the period under section 269ZC(5)(a) (non-trading profits deductions allowance).”
- 5 In section 269ZC (restriction on deductions from non-trading profits) in subsection (6) for paragraph (b) substitute –
“(b) any amount specified for the period under section 269ZB(7)(a) (trading profits deductions allowance).”
- 6 (1) Section 269ZD (restriction on deductions from total profits) is amended as follows.
(2) In subsection (2) –
(a) in paragraph (b) –
(i) at the end of sub-paragraph (i) insert “and”, and
(ii) omit sub-paragraph (iii) and the “and” immediately before it, and
(b) in the second sentence omit “and section 269ZE”.
(3) In subsection (4)(a) after “period” insert “(see section 269ZFA)”.
(4) Omit subsection (5).
(5) For subsection (7) substitute –
“(7) Subsection (2) does not apply in relation to a company for an accounting period where the amount given by paragraph (1) of step 1 in section 269ZF(3) is not greater than nil.”
- 7 Omit section 269ZE (restriction on deductions from total profits: insurance companies).
- 8 After section 269ZF insert –
“269ZFA “Relevant profits”
(1) A company’s “relevant profits” for an accounting period are –
(a) the company’s qualifying profits for the accounting period, less
(b) the company’s deductions allowance for the accounting period (see section 269ZD(6)).
(2) A company’s “qualifying profits” for an accounting period are –
(a) the amount given by paragraph (1) of step 1 in section 269ZF(3) in determining the company’s qualifying trading profits and qualifying non-trading profits for the accounting period, less

- (b) the amount given by paragraph (1) of step 2 in section 269ZF(3) in determining those profits for the accounting period.”

9 After section 269ZFA (as inserted by paragraph 8) insert—

“Modifications for certain insurance companies

269ZFB Modifications for certain insurance companies

- (1) This section has effect for determining the taxable total profits of a company for an accounting period if the company—
 - (a) is an insurance company, and
 - (b) carries on basic life assurance and general annuity business in the period.
- (2) A reference in section 269ZD(7) and section 269ZFA(2) to the amount given by a paragraph of a step in section 269ZF(3) is to be read as a reference to the amount that would be so given if—
 - (a) section 269ZF(4)(a) did not require income referable to a company’s basic life assurance and general annuity business to be ignored unless it falls within, and is dealt with under, Part 9A of CTA 2009 by reason of an election under section 931R of that Act, and
 - (b) section 269ZF(4)(d) required only the policyholders’ share of any I-E profit (as determined in accordance with section 103 of FA 2012) to be ignored.
- (3) In this section—
 - “basic life assurance and general annuity business” has the meaning given by section 57 of FA 2012, and
 - “insurance company” has the meaning given by section 65 of that Act.”

10 In section 269ZJ (exclusion of shock losses from restrictions) omit subsection (4).

11 In section 269ZQ (power to amend) in subsection (2)(b) for “124E” substitute “124C”.

12 In section 269ZV (group allowance allocation statement: requirements and effects) after subsection (5) insert—

- “(5A) In its application in relation to a listed company that is the ultimate parent (see section 269ZZB(3)) of each other company in the group, subsection (5) has effect as if after “the group” in paragraph (b) of the definition of DAP there was inserted “and was not a member of any other group”.”

13 In section 269CC (restrictions on deductions by banking companies: management expenses etc) in subsection (7) (how to determine “relevant maximum”) in Step 1 for “269ZD(5)” substitute “269ZFA”.

14 In section 269CN (restrictions on deductions by banking companies: definitions) in the definition of “relevant profits” for “269ZD(5)” substitute “269ZFA”.

- 15 In section 304(7) (certain deductions in respect of losses made in a ring fence trade to be ignored for the purposes of the restriction on deductions from trading profits) in paragraph (b) for “total” substitute “trade”.
- 16 FA 2012 is amended as follows.
- 17 In section 124 (carry forward of pre-1 April 2017 BLAGAB trade losses against subsequent profits) in subsection (5) omit “(but see also section 124D)”.
- 18 In section 124A (carry forward of post-1 April 2017 BLAGAB trade losses against subsequent profits) in subsection (5) omit “(but see also section 124D)”.
- 19 In section 124C (further carry forward against subsequent profits of post-1 April 2017 loss not fully used) in subsection (6) omit “(but see also section 124D)”.
- 20 Omit sections 124D and 124E (restriction on deductions from BLAGAB trade profits).

Terminal losses: straddling periods

- 21 For section 45G of CTA 2010 substitute –

“45G Section 45F: accounting period falling partly within 3 year period

- (1) This section applies if –
- (a) a company ceases to carry on a trade in an accounting period (“the terminal period”), and
 - (b) a previous accounting period of the company (“the straddling period”) falls partly within the period of 3 years ending with the end of the terminal period.
- (2) The sum of any deductions under section 45F from the profits of the trade of the straddling period is not to exceed an amount equal to the overlapping proportion of those profits (calculated before making those deductions).
- (3) The sum of –
- (a) any deductions under section 45F from the profits of the trade of the straddling period, and
 - (b) any deductions under that section from the total profits of the straddling period in respect of losses made in the trade,
- must not exceed an amount equal to the overlapping proportion of the total profits of the straddling period (calculated before making those deductions).
- (4) The overlapping proportion is the same as the proportion that the part of the straddling period falling within the period of 3 years mentioned in subsection (1)(b) bears to the whole of the straddling period.”

Group relief for carried-forward losses: shock losses of insurance companies

- 22 In section 188BG(3) of CTA 2010 (types of loss that may not be surrendered by a Solvency 2 insurance company) –

- (a) omit “or” at the end of paragraph (b), and
- (b) after paragraph (c) insert “or
 - (d) a BLAGAB trade loss carried forward to the surrender period under section 124A(2) or 124C(3) of FA 2012,”.

Transferred trades

- 23 CTA 2010 is amended as follows.
- 24 In section 357JI (Northern Ireland losses: transfers of trade without a change of ownership) in subsection (2) for the words from the beginning to “that section” substitute “Sections 943A to 944C (which modify the application of Chapter 2 of Part 4) have effect as if the references in those sections”.
- 25 In section 676 (disallowance of trading loss on change in ownership of company: company reconstructions) –
- (a) in subsection (2) for the words from “section 944(3)” to “successor company” substitute “Chapter 1 of Part 22”,
 - (b) in subsection (4)(a) after “45” insert “, 45A, 45B, 303B, 303C or 303D”, and
 - (c) in subsection (4)(b) for “944(3)” substitute “Chapter 1 of Part 22”.
- 26 In section 676AF (restriction on use of carried-forward post-1 April 2017 trade losses) –
- (a) the existing provision becomes subsection (1), and
 - (b) after that subsection insert –
 - “(2) A loss made by another company (“the predecessor company”) in an accounting period beginning before the change in ownership may not be deducted from affected profits of an accounting period ending after the change in ownership under any of the provisions mentioned in paragraphs (a) to (c) of subsection (1) (as applied by virtue of Chapter 1 of Part 22 (transfers of trades)).”
- 27 In section 676BC (disallowance of relief for trade losses) –
- (a) in subsection (1) omit “by the company”,
 - (b) in subsection (4), in the words before paragraph (a), after “made” insert “by the company”, and
 - (c) after subsection (4) insert –
 - “(5) A loss made by another company (“the predecessor company”) in an accounting period beginning before the change in ownership may not be deducted as a result of section 45A, 45F or 303C (as applied by Chapter 1 of Part 22 (transfers of trades)) from so much of the total profits of an accounting period of the company ending after the change in ownership as represents the relevant gain.”

Commencement

- 28 The amendments made by paragraphs 1 to 11, 13 and 14 and 16 to 20 have effect in relation to accounting periods beginning on or after 6 July 2018.

- 29 The other amendments made by this Schedule have effect in relation to accounting period beginning on or after 1 April 2019.
- 30 For the purposes of the amendments made by paragraphs 1 to 11, 13 and 14 and 16 to 20, where a company has an accounting period beginning before 6 July 2018 and ending on or after that date (“the straddling period”)—
- (a) so much of the straddling period as falls before 6 July 2018, and so much of that period as falls on or after that date, are to be treated as separate accounting periods, and
 - (b) where it is necessary to apportion an amount for the straddling period to the two separate accounting period, it is to be apportioned—
 - (i) in accordance with section 1172 of CTA 2010 (time basis), or
 - (ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.
- 31 Paragraph 30 applies for the purposes of the other amendments made by this Schedule as if the references to 6 July 2018 were to 1 April 2019.

SCHEDULE 5

Section 9

CORPORATE INTEREST RESTRICTION

Introductory

- 1 Part 10 of TIOPA 2010 (corporate interest restriction) is amended as follows.

Adjusted net group-interest expense: capitalised interest

- 2 Section 410 (net group-interest expense), after subsection (5) insert—
- “(5A) If, on the assumption that subsections (3) and (5) applied to relevant assets, an amount would, in accordance with subsection (3) or (5), have been treated as included in A or B in subsection (1)—
- (a) as an amount attributable to the capitalised expense, or
 - (b) as an amount attributable to the capitalised income,
- none of that amount is to be included in A or B in that subsection.”
- 3 (1) Section 413 (adjusted net group-interest expense) is amended as follows.
- (2) In subsection (3)—
 - (a) in paragraph (a), for “an asset or liability” substitute “a non-financial asset or non-financial liability”, and
 - (b) in paragraph (b), after “an amount that” insert “, in the case of a non-financial asset,”.
 - (3) In subsection (4)—
 - (a) in paragraph (a), for “an asset or liability” substitute “a non-financial asset or non-financial liability”, and
 - (b) in paragraph (b), after “an amount that” insert “, in the case of a non-financial asset,”.

(4) For subsection (5) substitute –

- “(5) For the purposes of subsections (3)(a) and (b) and (4)(a) and (b) –
- (a) an asset is a “non-financial asset” if it is not a financial asset for accounting purposes,
 - (b) a liability is a “non-financial liability” if it is not a financial liability for accounting purposes, and
 - (c) references to amounts brought into account in determining the carrying value of a non-financial asset or non-financial liability do not include amounts so brought into account as a result of writing off any part of an amount which was itself so brought into account.”

4 (1) Section 423 (capitalised interest brought into account for tax purposes in accordance with GAAP) is amended as follows.

(2) After subsection (2) insert –

“(2A) Section 413 has effect, in the case of a GAAP-taxable asset that is a relevant asset, as if –

- (a) the definition of “upward adjustment” included so much of its carrying value written down in the group’s financial statements for the relevant period of account as is attributable to a relevant expense amount brought into account in the group’s financial statements in determining its carrying value, and
- (b) the definition of “downward adjustment” included so much of the reduction of its carrying value written down in the group’s financial statements for the relevant period of account as is attributable to a relevant income amount brought into account in the group’s financial statements in determining its carrying value.

(2B) For the purposes of subsection (2A) it does not matter whether the relevant expense or income amount is brought into account in determining the asset’s carrying value in the group’s financial statements for the relevant period of account or an earlier period.”

(3) In subsection (3), for “But subsection (2)(b) of this section is of no effect where” substitute “But subsections (2)(b) and (2A) of this section are of no effect so far as”.

Adjusted net group-interest expense: impairment debts and credits and connected companies

5 (1) Section 413 (meaning of “adjusted net group-interest expense”) is amended as follows.

(2) In subsection (3)(d)(i), for “or 323A” substitute “, 323A or 358”.

(3) In subsection (4)(d)(i) –

- (a) after “section 323A” insert “or 354”, and
- (b) for “credits” substitute “debits”.

Interest allowance (alternative calculation) election: unpaid employees' remuneration

6 After section 424 insert –

“424A Unpaid employees' remuneration

- (1) Where an interest allowance (alternative calculation) election has effect in relation to a period of account of a worldwide group, this Chapter applies in relation to the period subject to this section.
- (2) The definition of “the group's profit before tax” in section 416(2) has effect as if references to amounts that are recognised in the financial statements of the group for the period, as items of profit or loss, excluded amounts so recognised in respect of employees' remuneration that are not paid before the end of the period of 9 months immediately following the end of the period of account.
- (3) If –
 - (a) an amount is, as a result of subsection (2), excluded from the financial statements of the group for the period of account, and
 - (b) the amount is paid in a later period of account of the group in relation to which an interest allowance (alternative calculation) election has effect,
 the definition of “the group's profit before tax” in section 416(2) has effect as if references to amounts that are recognised in the financial statements of the group for the later period of account, as items of profit or loss, included the amount that is paid in that later period.
- (4) Section 1289 of CTA 2009 (unpaid remuneration: supplementary) applies for the purposes of this section as it applies for the purposes of section 1288 of that Act.”

Interest allowance (non-consolidated investment) election

7 In section 427 (group interest and group-EBITDA), after subsection (5) insert –

- “(5A) Any increase to be made as a result of subsection (4) or (5) is to be made as part of a single calculation required by section 413(1) or 414(1) (so that the amount produced by that calculation is subject to section 413(2) or 414(2)).”

Public infrastructure

8 In section 433 (meaning of “qualifying infrastructure company”), in subsection (5), after paragraph (c) insert –

- “(ca) assets held for the purposes of a pension scheme under which benefits are provided to, or in respect of, persons employed for the purpose of the carrying on of qualifying infrastructure activities by the company or another associated qualifying infrastructure company,
- (cb) assets in respect of deferred tax so far as attributable to qualifying infrastructure activities carried on by the company or another associated qualifying infrastructure company.”

9 In section 439 (exemption in respect of certain pre-13 May 2016 loan

relationships), in subsection (3), after paragraph (b) insert –
“, but ignoring amounts that represent the reimbursement of expenses incurred by C or the other company.”

Real Estate Investment Trusts

- 10 (1) Section 452 (Real Estate Investment Trusts) is amended as follows.
- (2) In subsection (4), at the end insert “(and, accordingly, the profits mentioned in section 534(1) or (2) of CTA 2010 are not calculated for the purposes of this Part in accordance with section 599 of that Act)”.
- (3) After subsection (4) insert –
“(4A) An amount charged on the residual business company as a result of section 543 of CTA 2010 (excessive property financing costs) is treated for the purposes of this Part as if it met condition A, B, C or D for the purposes of section 385 (tax-interest income amounts).”
- (4) For subsection (5) substitute –
“(5) The allocated disallowance for the property rental business company (if any) for the accounting period –
 - (a) is to be taken into account in calculating the profits of the property rental business for the purposes of section 530 of CTA 2010 (condition as to distribution of profits), but
 - (b) must be limited to such amount as secures that neither subsection (3)(b) nor subsection (5) of that section (distribution of profits not required if would result in unlawful distribution) applies.”

Interest restriction return

- 11 In –
 - (a) paragraph 1(4)(a) of Schedule 7A (period for appointing a group’s reporting company), and
 - (b) paragraph 2(4)(a) of that Schedule (period for revoking appointment),for “six months” substitute “12 months”.
- 12 In paragraph 7(5) of Schedule 7A (meaning of “the filing date”) –
 - (a) for paragraph (b) substitute –
 - “(b) if an appointment of a reporting company under paragraph 4 or 5 has effect in relation to the period of account, the end of the period of 3 months beginning with the day on which the appointment was made,” and
 - (b) after that paragraph insert –
“whichever is the later.”
- 13 In paragraph 20 of Schedule 7A (required contents of interest restriction return: full returns and abbreviated returns), after sub-paragraph (5) insert –
“(5A) In addition to the matters required to be included in an interest restriction return in accordance with sub-paragraph (3) or (5), the

return must include such other specified information as may reasonably be required for the purposes of this Part of this Act.

- (5B) In sub-paragraph (5A) “specified” means specified in a notice published by Her Majesty’s Revenue and Customs (and different information may be specified for different purposes).”

Consequential amendments

- 14 In section 411 (definitions of “relevant expense amount” and “relevant income amount”), omit subsection (4).
- 15 In section 494(1) (other interpretation), after “interest restriction return” insert—
 ““pension scheme” has the meaning given by section 150(1) of FA 2004;”.
- 16 In Part 7 of Schedule 11 (index of defined expressions used in Part 10 of TIOPA 2010), at the appropriate place insert—

“pension scheme (in Part 10)	section 494(1)”
------------------------------	-----------------

Commencement

- 17 (1) The amendments made by paragraphs 2 to 7 and 10(2) and (4) have effect in relation to periods of account of worldwide groups that begin on or after 1 January 2019.
- (2) In this paragraph “period of account” and “worldwide group” have the same meaning as in Part 10 of TIOPA 2010.
- 18 Part 10 of TIOPA 2010 has effect, and is to be deemed always to have had effect, with the amendments made by paragraphs 8, 9, 10(3) and 14 to 16.
- 19 The amendment made by paragraph 13 has effect in relation to any interest restriction return submitted on or after 1 April 2019.

SCHEDULE 6

Section 10

AVOIDANCE INVOLVING PROFIT FRAGMENTATION ARRANGEMENTS

Introduction and overview

- 1 (1) This Schedule contains provision about countering the tax effects of certain arrangements (“profit fragmentation arrangements”).
- (2) Profit fragmentation arrangements involve the following parties—
- a person resident in the United Kingdom (“the resident party”),
 - an overseas person or entity (“the overseas party”), and
 - an individual resident in the United Kingdom (a “related individual”) who is—
 - the resident party,

- (ii) a member of a partnership of which the resident party is a partner, or
 - (iii) a participator in a company which is the resident party.
- (3) An “overseas person or entity” means—
 - (a) a person abroad within the meaning given by section 718 of ITA 2007, or
 - (b) a company, partnership, trust or other entity or arrangements established or having effect under the law of a country or territory outside the United Kingdom (regardless of whether it has legal personality as a body corporate).
- (4) Paragraphs 2 to 6 deal with the definition of profit fragmentation arrangements.
- (5) Paragraph 7 deals with the counteraction of the effects of such arrangements.
- (6) Other provisions of this Schedule—
 - (a) deal with double taxation and the tax treatment of reimbursement payments (paragraphs 8 and 9),
 - (b) ensure that an officer of Revenue and Customs is notified of arrangements that are potentially profit fragmentation arrangements (paragraph 10), and
 - (c) deal with interpretation and commencement (paragraphs 11 to 13).

Profit fragmentation arrangements

- 2 (1) Arrangements are “profit fragmentation arrangements” if—
 - (a) provision has been made or imposed as between the resident party and the overseas party by means of the arrangements (“the material provision”),
 - (b) as a result of the material provision, value is transferred as between those parties which derives directly or indirectly from anything done for the purposes of or in connection with a business whose profits are chargeable to income tax or corporation tax (see paragraph 3),
 - (c) the value transferred is greater than the value which the overseas party would receive in consideration for any services provided by that party if the value were being transferred between parties acting at arm’s length,
 - (d) the material provision results in a tax mismatch for a tax period of the resident party (see paragraphs 4 and 5), and
 - (e) any of the enjoyment conditions are met in relation to a related individual (see paragraph 6).
- (2) For the purposes of sub-paragraph (1)(a) provision made or imposed as between a partnership of which the resident party is a member and the overseas party is to be regarded as provision made or imposed as between the resident party and the overseas party.

Transfer of value deriving directly or indirectly from income

- 3 (1) In determining whether value deriving directly or indirectly from the income of a business is transferred between the resident party and the

- overseas party, account is to be taken of any method, however indirect, by which—
- (a) any property or right is transferred or transmitted, or
 - (b) the value of any property or right is enhanced or diminished.
- (2) Sub-paragraph (1) applies in particular to—
- (a) sales, contracts and other transactions made otherwise than for full consideration or for more than full consideration,
 - (b) any method by which any property or right, or the control of any property or right, is transferred or transmitted by assigning—
 - (i) share capital or other rights in a company,
 - (ii) rights in a partnership, or
 - (iii) an interest in settled property,
 - (c) the creation of an option affecting the disposition of any property or right and the giving of consideration for granting it,
 - (d) the creation of a requirement for consent affecting such a disposition and the giving of consideration for granting it,
 - (e) the creation of an embargo affecting such a disposition and the giving of consideration for releasing it, and
 - (f) the disposal of any property or right on the winding up, dissolution or termination of a company, partnership or trust.
- (3) Value may be traced through any number of companies, partnerships, trusts and other entities or arrangements.
- (4) The property held by a company, partnership, trust or other entity or under any arrangements must be attributed to the shareholders, partners, beneficiaries or other participants at each stage in whatever way is appropriate in the circumstances.

Tax mismatch

- 4 (1) The material provision results in a tax mismatch for a tax period of the resident party if—
- (a) in that period, in relation to a relevant tax, it results in one or both of—
 - (i) expenses of the resident party for which a deduction has been taken into account in computing the amount of the relevant tax payable by the resident party, or
 - (ii) a reduction in the income of the resident party which would otherwise have been taken into account in computing the amount of the relevant tax payable by the resident party,
 - (b) the resulting reduction in the amount of the relevant tax which is payable by the resident party exceeds the resulting increase in relevant taxes payable by the overseas party for the period corresponding to the tax period,
 - (c) the results described in paragraphs (a) and (b) are not exempted by sub-paragraph (4), and
 - (d) the overseas party does not meet the 80% payment test.
- (2) In this Schedule, references to “the tax reduction” are to the amount of the excess mentioned in sub-paragraph (1)(b).

- (3) It does not matter whether the tax reduction results from the application of different rates of tax, the operation of a relief, the exclusion of any amount from a charge to tax, or otherwise.
- (4) The results described in sub-paragraph (1)(a) and (b) are exempted if they arise solely by reason of –
 - (a) contributions paid by an employer under a registered pension scheme, or overseas pension scheme, in respect of any individual,
 - (b) a payment to a charity,
 - (c) a payment to a person who, on the ground of sovereign immunity, cannot be liable for any relevant tax, or
 - (d) a payment to an offshore fund or authorised investment fund –
 - (i) which meets the genuine diversity of ownership condition (whether or not a clearance has been given to that effect), or
 - (ii) at least 75% of the investors in which are, throughout the accounting period, registered pension schemes, overseas pension schemes, charities or persons who cannot be liable for any relevant tax on the ground of sovereign immunity.
- (5) “The 80% payment test” is met by the overseas party if the resulting increase in relevant taxes paid by that party as mentioned in sub-paragraph (1)(b) is at least 80% of the amount of the resulting reduction in the amount of the relevant tax payable by the resident party.
- (6) In this paragraph and paragraph 5, where the overseas party does not have an actual period for the purposes of relevant taxes which coincides with the tax period of the resident party –
 - (a) references to the corresponding period of the overseas party in relation to that tax period are to a notional period of that party for the purposes of relevant taxes that would coincide with that tax period, and
 - (b) such apportionments as are just and reasonable are to be made to determine the income or tax liability of that party for that corresponding period.
- (7) In this paragraph –
 - “relevant tax” means –
 - (a) income tax,
 - (b) corporation tax on income,
 - (c) a sum chargeable under section 269DA of CTA 2010 (surcharge on banking companies) as if it were an amount of corporation tax,
 - (d) a sum chargeable under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades as if it were an amount of corporation tax), or
 - (e) any non-UK tax on income, and
 - “tax period”, in relation to a resident party, means –
 - (a) a tax year, or
 - (b) if the resident party is a company, an accounting period of that party.

Tax mismatch: resulting reduction and resulting increase

- 5 (1) For the purposes of paragraph 4, the resulting reduction in the resident party's liability to a relevant tax for a tax period is –

A x TR

where –

A is the sum of –

- (a) if there are expenses within paragraph 4(1)(a)(i), the lower of the amount of expenses and the amount of the deduction mentioned in that provision, and
- (b) any reduction in income mentioned in paragraph 4(1)(a)(ii), and

TR is the rate at which, assuming the resident party has profits equal to A chargeable to the relevant tax for the tax period, those profits would be chargeable to that tax.

For this purpose, the rate at which those profits would be chargeable to that tax for that period is the highest rate at which that tax would be chargeable for that period if those profits were added to the resident party's total income.

- (2) For the purposes of paragraph 4(1)(b) and (4), the resulting increase in relevant taxes payable by the overseas party for the period corresponding to the tax period is any increase in the total amount of relevant taxes that would fall to be paid by that party (and not refunded) assuming that –
 - (a) the overseas party's income for that period, in consequence of the material provision were an amount equal to A,
 - (b) account were taken of any deduction or relief (other than any qualifying deduction or qualifying loss relief) taken into account by the overseas party in determining that party's actual liability to any relevant taxes in consequence of the material provision, and
 - (c) all further reasonable steps were taken –
 - (i) under the law of any part of the United Kingdom or any country or territory outside the United Kingdom, and
 - (ii) under double taxation arrangements made in relation to any country or territory,
 to minimise the amount of tax which would fall to be paid by the overseas party in the country or territory in question (other than steps to secure the benefit of any qualifying deduction or qualifying loss relief).
- (3) The steps mentioned in sub-paragraph (2)(c) include –
 - (a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances, and
 - (b) making elections for tax purposes.
- (4) For the purposes of this paragraph, any withholding tax which falls to be paid on payments made to the overseas party is (unless it is refunded) to be treated as tax which falls to be paid by that party (and not the person making the payment).
- (5) For the purposes of this paragraph, an amount of tax payable by the overseas party is refunded if and to the extent that –

- (a) any repayment of tax, or any payment in respect of a credit for tax, is made to any person, and
 - (b) that repayment or payment is directly or indirectly in respect of the whole or part of the amount of tax payable by the overseas party, but an amount refunded is to be ignored if and to the extent that it results from qualifying loss relief obtained by that party.
- (6) Where the overseas party is a member of a partnership, in paragraph 4 and this paragraph—
- (a) references to that party’s liability to any tax (however expressed) include a reference to the liabilities of all members of the partnership to the tax,
 - (b) references to any tax being payable by that party (however expressed) include a reference to tax being payable by any member of the partnership, and
 - (c) references to loss relief obtained by that party include a reference to loss relief obtained by any member of the partnership,
- and sub-paragraph (4) applies to any member of the partnership as it applies to that party.
- (7) In this paragraph—
- “qualifying deduction” means a deduction which—
 - (a) is made in respect of actual expenditure of the overseas party,
 - (b) does not arise directly from the arrangements,
 - (c) is of a kind for which the resident party would have obtained a deduction in calculating that party’s liability to any income tax or corporation tax had that party incurred the expenditure in respect of which the deduction is given, and
 - (d) does not exceed the amount of the deduction that the resident party would have so obtained,
 - “qualifying loss relief” means any means by which a loss might be used for tax purposes to reduce the amount in respect of which the overseas party is liable to tax on the profits of a business, and
 - “relevant tax” has the same meaning as in paragraph 4.

The enjoyment conditions

- 6 (1) The enjoyment conditions are met in relation to a related individual if—
- (a) it is reasonable to suppose that some or all of the value transferred as a result of the material provision relates to something done by, or any property or purported right of, the individual, and
 - (b) under the arrangements—
 - (i) the individual (whether acting alone or with any other person) procures the transfer of the value,
 - (ii) the value transferred, or part of it, is so dealt with by any person as to be calculated at some time to enure for the benefit of the individual,
 - (iii) the value transferred, or part of it, operates to increase the value of any assets which the individual holds or are held for the benefit of the individual,
 - (iv) the individual receives or is entitled to receive any benefit provided or to be provided out of the value transferred or part of it,

- (v) the individual may become entitled to the beneficial enjoyment of the value transferred, or part of it, if one or more powers are exercised or successively exercised (and for those purposes it does not matter who may exercise the powers or whether they are exercisable with or without the consent of another person), or
 - (vi) the individual (whether acting alone or together with any other person) is able in any manner to control directly or indirectly the application of the value transferred or part of it.
- (2) In determining whether the enjoyment conditions are met in relation to an individual and the value transferred as a result of the material provision, all benefits which may at any time accrue to a person as a result of the value being transferred must be taken into account, irrespective of –
- (a) the nature or form of the benefits, or
 - (b) whether the person has legal or equitable rights in respect of the benefits.
- (3) For the purposes of sub-paragraphs (1)(b) and (2), references to an individual include a reference to any person connected with that individual and, for the purposes of this paragraph, section 993 of ITA 2007 (meaning of “connected”) has effect but as if –
- (a) subsection (4) of that section were omitted, and
 - (b) partners in a partnership in which the an individual is also a partner were not “associates” of the individual for the purposes of sections 450 and 451 of CTA 2010 (“control”).
- (4) For the purposes of sub-paragraph (3), an individual is treated as connected with a person or entity if –
- (a) the individual or a person connected with the individual (whether acting alone or with any other person) –
 - (i) is able to secure that the person or entity acts in accordance with the wishes of the individual or any person connected with the individual,
 - (ii) is able to acquire rights which would enable the individual or any person connected with the individual to secure that the person or entity acts in accordance with the wishes of the individual or any person connected with the individual, or
 - (iii) is able to exercise significant influence over the person or entity (whether or not as a result of a legal entitlement of the individual or any person connected with the individual), or
 - (b) the person or entity can reasonably be expected to act, or typically acts, in accordance with the wishes of the individual or a person connected with the individual.

Counteracting effects of arrangements

- 7 (1) If it is reasonable to conclude that profit fragmentation arrangements were entered into to obtain a tax advantage, the tax advantages that would (ignoring this Schedule) arise from the arrangements must be counteracted by the making of such adjustments as are just and reasonable.
- (2) Any adjustments required to be made by this paragraph (whether or not by an officer of Revenue and Customs) may be made by way of –
- (a) an assessment,

- (b) the modification of an assessment, or
- (c) amendment or disallowance of a claim,
or otherwise.

Double taxation

- 8 (1) This paragraph applies where –
- (a) tax is charged on the resident party by virtue of the application of paragraph 7, and
 - (b) at any time, a tax (whether income tax, corporation tax or another United Kingdom tax) is charged on the resident party or another person otherwise than by virtue of the application of paragraph 7 which results in a double charge to tax.
- (2) In order to avoid the double charge to tax, the resident party may make a claim in writing for one or more consequential adjustments to be made in respect of the tax charged mentioned in sub-paragraph (1)(a).
- (3) On a claim under this paragraph an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (4) The amount of any consequential adjustments must not exceed the lesser of –
- (a) the tax charged on the resident party as mentioned in sub-paragraph (1)(a), and
 - (b) the tax charged as mentioned in sub-paragraph (1)(b).
- (5) Consequential adjustments may be made –
- (a) in respect of any tax period,
 - (b) by way of an assessment, the modification of an assessment, the amendment of a claim or otherwise, and
 - (c) despite any time limit imposed by or under any enactment.

Reimbursement payments ignored for tax purposes

- 9 In calculating income, profits or losses for any tax purposes, no account is to be taken of any amount which is paid (directly or indirectly) by a person for the purposes of meeting or reimbursing the cost of tax charged on the resident party by virtue of the application of paragraph 7.

Notification of arrangements

- 10 (1) Where arrangements meet the requirements in paragraph 2(1)(a), (b), (d) and (e), the resident party must notify an officer of Revenue and Customs to that effect in relation to the tax period in which the material provision results in a tax mismatch (see paragraph 2(1)(d)).
- (2) A notification under sub-paragraph (1) must contain details of the arrangements including –
- (a) a description of the material provision in question and the parties between whom it has been made or imposed,
 - (b) the value transferred as a result of the material provision, and
 - (c) the amount of the tax reduction.

- (3) A notification under sub-paragraph (1) must be made in a tax return under TMA 1970 or paragraph 3 of Schedule 18 to FA 1998 (company tax return) for the tax period.
- (4) The duty under sub-paragraph (1) does not apply in relation to arrangements if it is reasonable to conclude that any of the following provisions apply in relation to the value transferred as a result of the material provision –
 - (a) Part 4 of TIOPA 2010 (transfer pricing),
 - (b) Part 9A of that Act (controlled foreign companies), or
 - (c) Part 3 of FA 2015 (diverted profits tax).
- (5) The Commissioners for Her Majesty’s Revenue and Customs may direct that the duty under sub-paragraph (1) does not apply in relation to a tax period in other circumstances specified in the direction.

Treatment of a person who is a member of a partnership

- 11 (1) This paragraph applies where a person is a member of a partnership.
- (2) Any references in this Schedule to the expenses, income or profits of, or to the adjustment of the income or profits of, the person includes a reference to the person’s share of the income or profits of, or adjustment of the income or profits of, the partnership.
- (3) For this purpose “the person’s share” of an amount is determined by apportioning the amount between the partners on a just and reasonable basis.

Other defined terms

- 12 In this Schedule –
 - “arrangements” includes any scheme, agreement, understanding, transaction or series of transactions (whether or not legally enforceable),
 - “authorised investment fund” means –
 - (a) an open-ended investment company within the meaning of section 613 of CTA 2010, or
 - (b) an authorised unit trust within the meaning of section 616 of that Act,
 - “business” includes any trade, profession or vocation,
 - “employer” has the same meaning as in Part 4 of FA 2004 (see section 279(1) of that Act),
 - “genuine diversity of ownership condition” means –
 - (a) in the case of an offshore fund, the genuine diversity of ownership condition in regulation 75 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), and
 - (b) in the case of an authorised investment fund, the genuine diversity of ownership condition in regulation 9A of the Authorised Investment Fund (Tax) Regulations 2006 (S.I. 2006/964),
 - “material provision” has the same meaning as in paragraph 2,
 - “offshore fund” has the same meaning as in section 354 of TIOPA 2010 (see section 355 of that Act),

- “the overseas party” has the meaning given by paragraph 1(2),
- “overseas pension scheme” has the same meaning as in Part 4 of FA 2004 (see section 150(7) of that Act),
- “partnership” includes an entity established under the law of a country or territory outside the United Kingdom of a similar character to a partnership, and “partners”, in relation to such arrangements, is to be construed accordingly,
- “related individual” and “the resident party” have the meanings given by paragraph 1(2),
- “tax advantage” includes –
- (a) relief or increased relief from income tax or corporation tax,
 - (b) repayment or increased repayment of income tax or corporation tax,
 - (c) avoidance or reduction of a charge or an assessment to income tax or corporation tax,
 - (d) avoidance of a possible assessment to income tax or corporation tax,
 - (e) deferral of a payment of tax or advancement of a repayment of tax, and
 - (f) avoidance of an obligation to deduct or account for tax,
- “tax period” has the meaning given by paragraph 4(7),
- “the tax reduction” has the meaning given by paragraph 4(2), and
- “trust” includes arrangements –
- (a) which have effect under the law of a country or territory outside the United Kingdom, and
 - (b) under which persons acting in a fiduciary capacity hold and administer property on behalf of other persons,
- and “beneficiaries”, in relation to such arrangements, is to be construed accordingly.

Commencement

- 13 This Schedule has effect –
- (a) for income tax purposes, in relation to any value transferred on or after 6 April 2019 as a result of a material provision, and
 - (b) for corporation tax purposes, in relation to any value transferred on or after 1 April 2019 as a result of a material provision.

SCHEDULE 7

Section 11

OIL ACTIVITIES: TRANSFERABLE TAX HISTORY

PART 1

ELECTION TO TRANSFER TAX HISTORY

Entitlement to make a TTH election

- 1 This Schedule applies if, on or after 1 November 2018, the OGA gives consent for a company (the “seller”) to sell an interest in a UK oil licence to another company (the “purchaser”).
- 2 (1) The seller and purchaser may jointly make a TTH election in respect of an interest (“the TTH asset”) in a transferred oil field (the “TTH oil field”).
- (2) A “TTH election” is an election for –
 - (a) an amount of the seller’s ring fence profits (the “total TTH amount”) to be treated, in accordance with the provisions of this Schedule, as if it were an amount of the purchaser’s profits (instead of the seller’s profits), and
 - (b) a corresponding amount of the seller’s adjusted ring fence profits to be so treated for the purpose of Chapter 6 of Part 8 of CTA 2010 (supplementary charge).

PART 2

THE TOTAL TTH AMOUNT

The total TTH amount

- 3 (1) The total TTH amount may comprise –
 - (a) an amount representing the seller’s eligible ring fence profits for the reference accounting period, and
 - (b) amounts representing the seller’s eligible ring fence profits for so many of the preceding accounting periods ending on or after 17 April 2002 as the seller and purchaser may determine.
- (2) Sub-paragraph (1) is subject to –
 - (a) paragraph 4 (limits on total TTH amount),
 - (b) paragraph 11 (consecutive accounting periods), and
 - (c) paragraph 12 (the transferred profits amount for an accounting period).
- (3) See –
 - (a) paragraph 13 for the meaning of “eligible ring fence profits”, and
 - (b) paragraph 97 for the meaning of “reference accounting period” in relation to the seller.

Limits on total TTH amount

- 4 The total TTH amount must not exceed the lower of –
 - (a) the uplifted decommissioning costs estimate in relation to the TTH asset, and

- (b) the total amount of the seller’s eligible ring fence profits for the period –
 - (i) beginning with 17 April 2002, and
 - (ii) ending at the end of the reference accounting period.

The “uplifted decommissioning costs estimate”

- 5 To determine the “uplifted decommissioning costs estimate” in relation to the TTH asset –
 - (a) determine the seller’s proportion of the net cost amount (see paragraphs 6 and 7),
 - (b) allocate the relevant proportion of the amount determined under paragraph (a) to the TTH asset (see paragraph 8),
 - (c) adjust the allocated amount in accordance with paragraph 9, and
 - (d) double the adjusted amount.
- 6 (1) The “net cost amount” is the qualifying DSA estimate of the decommissioning costs for the TTH oil field.
 - (2) A “DSA estimate” is an estimate prepared for the purposes of a decommissioning security agreement to which the seller is a party.
 - (3) If there is only one decommissioning security agreement relating to the TTH oil field and to which the seller is a party, the “qualifying DSA estimate” is the most recent DSA estimate prepared for the purposes of that agreement within the qualifying period.
 - (4) If there is more than one decommissioning security agreement relating to the TTH oil field and to which the seller is a party, the “qualifying DSA estimate” is the lowest of the DSA estimates prepared for the purposes of any of those agreements within the qualifying period.
 - (5) For the purposes of sub-paragraphs (3) and (4), the “qualifying period” is the period of 12 months ending with –
 - (a) the date on which the TTH election is made, or
 - (b) in a case where the hive down condition (see paragraph 53(3)) is met, the date on which the seller and the purchaser cease to be associated with one another.
 - (6) In a case where the corporate restructuring condition (see paragraph 53(2)) is met, sub-paragraphs (3) and (4) have effect as if references to the seller were references to a party to the third party election.
- 7 The “seller’s proportion” of the net cost amount is the proportion of the decommissioning costs for the TTH oil field that is allocated to the seller under the decommissioning security agreement for the purposes of which the qualifying DSA estimate is prepared.
- 8 In paragraph 5(b), the “relevant proportion” means the proportion that the interest in the TTH oil field which is the TTH asset bears to the seller’s other interests in the TTH oil field or, if the proportion cannot reasonably be determined on that basis, such other proportion determined on a just and reasonable basis.
- 9 The amount allocated to the TTH asset under paragraph 5(b) is to be adjusted for the purposes of paragraph 5(c) by –

- (a) disregarding such assumptions used in preparing the qualifying DSA estimate for the purposes of an agreement, and
 - (b) making such other assumptions,
as may be reasonably specified by an officer of Revenue and Customs for the purpose of estimating the decommissioning costs that are likely to be incurred in relation to the TTH asset.
- 10 (1) A “decommissioning security agreement” is an agreement entered into for the purpose of—
- (a) making provision for the costs of decommissioning an oil field, and
 - (b) providing security for the performance of obligations under an approved abandonment programme for the purposes of section 38A of the Petroleum Act 1998.
- (2) In sub-paragraph (1), “approved abandonment programme” has the same meaning as in the Petroleum Act 1998.

Consecutive accounting periods

- 11 (1) The total TTH amount may not include an amount representing the eligible ring fence profits for a particular accounting period (other than the reference accounting period) unless it also includes an amount representing the eligible ring fence profits for the next following qualifying accounting period.
- (2) An accounting period is “qualifying” for the purposes of this Schedule if the seller has eligible ring fence profits for that period.

The transferred profits amount

- 12 (1) The transferred profits amount for an accounting period, other than the earliest period, must be an amount equal to the amount of the seller’s eligible ring fence profits for the period.
- (2) The transferred profits amount for the earliest period must be an amount equal to the amount of the seller’s eligible ring fence profits for that period, so far as that amount does not exceed the TTH balance for the earliest period.
- (3) The “TTH balance” for the earliest period is an amount equal to—
- (a) the total TTH amount, less
 - (b) the transferred profits amounts for each later accounting period.
- (4) In this paragraph, “earliest period” means the earliest accounting period for which there is a transferred profits amount.

“Eligible ring fence profits”

- 13 Ring fence profits of an accounting period are “eligible” for the purposes of a TTH election if, as at the date the TTH election is made—
- (a) corporation tax is charged on the profits of that period at the main ring fence profits rate,
 - (b) neither section 279B nor section 279C of CTA 2010 (marginal relief) applies in relation to the seller in that period,
 - (c) as at the effective date of the election, the seller’s liability to corporation tax in respect of the profits has been discharged in full, and

- (d) the total TTH amount for any other TTH election made by the seller (whether made with the purchaser or with another person) does not include an amount representing those profits.

- 14 In determining, for the purposes of this Schedule, the amount of the seller's eligible ring fence profits for an accounting period that falls partly before 17 April 2002, the amount of the seller's eligible ring fence profits for that period is to be reduced by the proportion which the part of the accounting period falling before that date bears to the whole of the accounting period.

PART 3

EFFECT OF A TTH ELECTION ON THE SELLER

Application of this Part

- 15 This Part applies if—
- (a) the seller and the purchaser have jointly made a TTH election in respect of the TTH asset, and
 - (b) the TTH election has been approved by an officer of Revenue and Customs (see paragraph 58).

Effect of a TTH election: corporation tax

- 16 (1) Sub-paragraphs (2) and (3) apply if the seller makes a loss in a trade in an accounting period.
- (2) For the purposes of section 37(3)(b) of CTA 2010 (including for the purposes of that provision as it has effect under the other trade loss relief provisions), the seller's total profits of a pre-transfer accounting period are treated as being—
- (a) the seller's total profits for that period, less
 - (b) the transferred profits amount for that period.
- (3) For the purposes of section 42 of CTA 2010, the seller's profits of a ring fence trade of a pre-transfer accounting period are treated as being—
- (a) the seller's ring fence profits for that period, less
 - (b) the transferred profits amount for that period.
- 17 The transferred profits amount for an accounting period is to be disregarded for the purposes of the application of any provision of the Corporation Tax Acts by reference to which the seller would (apart from this paragraph) be entitled to relief or a repayment of corporation tax.
- 18 (1) Paragraphs 16 and 17 are subject to this paragraph.
- (2) If, on or after the effective date of the TTH election, the seller's total profits for a pre-transfer accounting period are reduced to an amount which is lower than the transferred profits amount for that period—
- (a) the seller is treated as incurring a loss in a ring fence trade, of an amount equal to the difference, for the accounting period, and
 - (b) paragraph 17 does not apply to the difference.

Effect of a TTH election: supplementary charge

- 19 (1) This paragraph applies in relation to an accounting period for which there is a transferred profits amount.
- (2) The transferred adjusted ring fence profits amount for the accounting period is to be disregarded for the purposes of any provision of the Corporation Tax Acts by reference to which the seller would (apart from this paragraph) be entitled to a repayment of supplementary charge.
- (3) The “transferred adjusted ring fence profits amount” is –
- (a) in the case of an accounting period other than the earliest period, the amount of the seller’s eligible adjusted ring fence profits for the period;
 - (b) in the case of the earliest period, an amount equal to the relevant proportion of the amount of the seller’s eligible adjusted ring fence profits for the period.
- (4) In sub-paragraph (3)(b), the “relevant proportion” is the same as the proportion that the transferred profits amount for the accounting period bears to the seller’s ring fence profits amount for the period.
- (5) For the purposes of this Part, adjusted ring fence profits of an accounting period are “eligible” if –
- (a) an amount is charged on the profits under section 330(1) of CTA 2010 (supplementary charge in respect of ring fence trades), and
 - (b) as at the effective date of the election, the seller’s liability to tax under that section in respect of the adjusted ring fence profits has been discharged in full.
- (6) In sub-paragraph (3), “earliest period” has the meaning given by paragraph 12(4).

PART 4

EFFECT OF A TTH ELECTION ON THE PURCHASER

Application of this Part

- 20 This Part applies if –
- (a) the seller and the purchaser have jointly made a TTH election in respect of the TTH asset,
 - (b) the TTH election has been approved by an officer of Revenue and Customs (see paragraph 58),
 - (c) the winning of oil from the TTH oil field has permanently ceased for the purposes of OTA 1975 (see, in particular, section 6(4A) of that Act), and
 - (d) in a post-acquisition accounting period (the “loss period”) –
 - (i) the purchaser makes a loss in a ring fence trade,
 - (ii) the loss is a decommissioning loss,
 - (iii) the purchaser holds, for the loss period, an activated TTH amount (see Parts 5 and 6), and
 - (iv) the purchaser makes a claim for relief under section 37 of CTA 2010 (relief for trade losses against total profits) for the decommissioning loss.

- 21 In paragraph 20(d)(ii), “decommissioning loss” means a loss in respect of which –
- (a) a claim for relief under section 37 of CTA 2010 is made by virtue of section 39 or 40 of that Act (relief for trade losses: terminal losses and ring fence trades), or
 - (b) relief is given under section 42 of CTA 2010 (ring fence trades: further extension of period for relief).

Effect of trade loss relief provisions

- 22 (1) The total activated TTH amount held by the purchaser for the loss period is to be applied in accordance with sub-paragraph (2)(b) or (3)(b).
- (2) The purchaser’s total profits of a pre-acquisition accounting period are to be treated, for the purposes of section 37(3)(b) of CTA 2010 (including for the purposes of that provision as it has effect under the other trade loss relief provisions) as being the total of –
- (a) the amount of the purchaser’s total profits for that period, and
 - (b) if and so far as the loss in respect of which relief is claimed exceeds the amount mentioned in paragraph (a), the activated transferred profits amount for that period.
- (3) The purchaser’s profits of a ring fence trade of a pre-acquisition accounting period are to be treated for the purposes of section 42 of CTA 2010, as being the total of –
- (a) the purchaser’s profits of a ring fence trade for that period, and
 - (b) if and so far as the loss in respect of which relief is claimed exceeds the amount mentioned in paragraph (a), the activated transferred profits amount for that period.
- (4) See –
- (a) paragraphs 35 to 39 for provision about the “total activated TTH amount”, and
 - (b) paragraphs 41 to 46 and 102 for provision about the “activated transferred profits amount” for an accounting period.

Repayment of supplementary charge

- 23 (1) This paragraph applies where, in respect of a loss period, an activated transferred profits amount for a pre-acquisition accounting period is to be applied in accordance with paragraph 22(2)(b) or (3)(b).
- (2) A repayment of tax to be determined as if –
- (a) the seller’s supplementary charge for the pre-acquisition accounting period mentioned in sub-paragraph (1) had been charged on, and paid by, the purchaser, and
 - (b) the transferred adjusted ring fence profits amount for that accounting period were recalculated in accordance with paragraph 47.
- (3) For the purposes of sub-paragraph (2), the “seller’s supplementary charge” for an accounting period is the amount charged under section 330(1) of CTA 2010 in respect of the transferred adjusted ring fence profits amount for that period.

- 24 (1) In this Schedule, references to the transferred adjusted ring fence profits amount for a pre-acquisition accounting period of the purchaser are references to –
- (a) the transferred adjusted ring fence profits amount (see paragraph 19(3)) for the accounting period of the seller which coincides with the pre-acquisition accounting period of the purchaser, or
 - (b) if there is no coinciding accounting period of the seller, the overlapping proportion of the transferred adjusted ring fence profits amount for each accounting period of the seller that overlaps with the pre-acquisition accounting period of the purchaser.
- (2) The overlapping proportion, in relation to an accounting period of the seller, is the same as the proportion that the part of the seller’s accounting period that overlaps with the pre-acquisition accounting period of the purchaser bears to the whole of the seller’s accounting period.

Supplementary provision: repayment and enquiries

- 25 For the purposes of section 59D(2) of TMA 1970 (repayment of excess corporation tax) the amount of corporation tax paid by the seller in respect of an activated transferred profits amount that is applied in accordance with 22(2)(b) or (3)(b) is treated as having been paid by the purchaser.
- 26 An enquiry under Part 4 of Schedule 18 to FA 1998 into a tax return for the accounting period in which the claim mentioned in paragraph 20(d)(iv) is made, or an enquiry into the claim under Schedule 1A to TMA 1970, extends to –
- (a) the decommissioning expenditure amount attributable to the TTH oil field for any accounting period,
 - (b) the tracked profit or loss amount attributable to the TTH asset for any accounting period, and
 - (c) whether a TTH activation event has occurred in relation to the TTH asset.

PART 5

TTH ACTIVATION

TTH activation event

- 27 (1) A TTH activation event occurs in relation to the TTH asset if –
- (a) the winning of oil from the TTH oil field has permanently ceased, and
 - (b) at the end of a post-acquisition accounting period of the purchaser, the total decommissioning expenditure amount exceeds the total net profits amount.
- (2) The “total decommissioning expenditure amount” is the relevant proportion of the total of the decommissioning expenditure amounts (see paragraph 28) attributable to the TTH oil field, in respect of which an allowance or allocation is made to the purchaser, for –
- (a) the period mentioned in sub-paragraph (1)(b), and
 - (b) each preceding accounting period which is a post-acquisition accounting period.

- (3) The “total net profits amount” is the aggregate of the tracked profit or loss amounts (see paragraph 63) attributable to the TTH asset for –
 - (a) the period mentioned in sub-paragraph (1)(b), and
 - (b) each preceding accounting period which is a post-acquisition accounting period.
- (4) But if the aggregate of the tracked profit or loss amounts attributable to the TTH asset for the periods mentioned in sub-paragraph (3)(a) and (b) is a negative amount, the total net profits amount is nil.
- (5) In this paragraph, “the relevant proportion” means the proportion that the interest in the TTH oil field which is the TTH asset bears to the other interests in the TTH oil field.

Decommissioning expenditure amount

- 28 The “decommissioning expenditure amount” attributable to the TTH oil field for an accounting period, is the total of each of the following amounts attributable to the field for the post-acquisition accounting period –
 - (a) the special allowance amount,
 - (b) the post-cessation expenditure amount, and
 - (c) the restoration expenditure amount.
- 29 (1) The “special allowance amount” for an accounting period is the amount of a special allowance made under section 164 of CAA 2001 (general decommissioning expenditure incurred before cessation of ring fence trade) for that period.
 - (2) A special allowance amount is attributable to the TTH oil field so far as the expenditure in respect of which the allowance is made is expenditure incurred on decommissioning plant or machinery brought into use for the purposes of oil-related activities carried on wholly or partly in direct connection with the field.
- 30 (1) The “post-cessation expenditure amount” for an accounting period is the amount that, under section 165(3)(a) of CAA 2001 (general decommissioning expenditure after ceasing ring fence trade), is allocated to the appropriate pool for that period.
 - (2) A post-cessation expenditure amount is attributable to the TTH oil field so far as the general decommissioning expenditure in respect of which the amount is allocated is expenditure incurred on decommissioning plant or machinery brought into use for the purposes of oil-related activities carried on wholly or partly in direct connection with the field.
- 31 (1) The “restoration expenditure amount” for an accounting period is the amount that is treated as qualifying expenditure under section 416ZA of CAA 2001 (ring fence trades: expenditure on site restoration) for that period.
 - (2) A restoration expenditure amount is attributable to the TTH oil field if the qualifying expenditure is incurred in relation to the field.
- 32 For the purposes of paragraphs 29(2), 30(2) and 31(2), an expenditure amount for an accounting period is to be apportioned between the TTH oil field and other oil fields (or parts of oil fields) on a just and reasonable basis.

PART 6

ALLOCATION OF ACTIVATED TTH AMOUNT

Application of this Part

- 33 This Part of this Schedule applies if a TTH activation event occurs in relation to the TTH asset.
- 34 In this Schedule –
- (a) “first activation period” means the first post-acquisition accounting period of the purchaser in which a TTH activation event occurs, and
 - (b) “post-activation period” means a subsequent accounting period of the purchaser.

“Total activated TTH amount”

- 35 The “total activated TTH amount” held by the purchaser for a loss period which is the first activation period is the lower of –
- (a) the amount by which, at the end of that period, the total decommissioning expenditure amount exceeds the total net profits amount (see paragraph 27), and
 - (b) the total TTH amount.
- 36 The “total activated TTH amount” held by the purchaser for a loss period which is a post-activation period is the lower of –
- (a) the adjusted activated TTH amount (see paragraphs 37 to 39), and
 - (b) the closing balance of the total TTH amount for the immediately preceding accounting period (see paragraph 46).
- 37 (1) This paragraph applies if, in relation to a post-activation period –
- (a) the relevant proportion of the decommissioning expenditure amount attributable to the TTH oil field for that period, exceeds
 - (b) the tracked profit or loss amount attributable to the TTH asset for that period.
- (2) The “additional activated TTH amount” for the post-activation period is an amount equal to the excess.
- (3) For the purposes of paragraph 36, the adjusted activated TTH amount is the total of –
- (a) the closing balance of activated TTH for the immediately preceding accounting period, and
 - (b) the additional activated TTH amount for the post-activation period.
- (4) In this paragraph and in paragraph 38, “relevant proportion” has the same meaning as in paragraph 27(5).
- 38 (1) This paragraph applies if, in relation to a post-activation period –
- (a) the tracked profit or loss amount attributable to the TTH asset for that period, exceeds
 - (b) the relevant proportion of the decommissioning expenditure amount attributable to the TTH oil field for that period.
- (2) The “TTH reduction amount” for the post-activation period is an amount equal to the excess.

- (3) For the purposes of paragraph 36, the adjusted activated TTH amount is an amount equal to –
- (a) the closing balance of activated TTH for the immediately preceding accounting period, less
 - (b) the TTH reduction amount for the post-activation period.
- 39 If neither paragraph 37 nor paragraph 38 applies in relation to a post-activation period, the “total activated TTH amount” held by the purchaser for the period is an amount equal to the closing balance of activated TTH for the immediately preceding accounting period.

Allocation of activated TTH to an accounting period

- 40 Paragraph 41 applies for the purposes of paragraph 22 (effect of trade loss relief provisions in relation to the purchaser).
- 41 The total activated TTH amount for a loss period is to be allocated to pre-acquisition accounting periods of the purchaser as follows –

Step 1

Take the most recent pre-acquisition accounting period for which there is an unused transferred profits amount which is greater than nil.

Step 2

Allocate to that pre-acquisition accounting period an amount equal to the lower of –

- (a) the unused transferred profits amount, and
- (b) the total activated TTH amount held by the purchaser for the loss period.

Step 3

Allocate to the next most recent pre-acquisition accounting period an amount equal to the lower of –

- (a) the transferred profits amount for that period, and
- (b) the available activated TTH amount for the loss period.

Step 4

Repeat Step 3 (taking later pre-acquisition accounting periods before earlier ones) until the amount given by paragraph (a) or (b) is nil.

Transferred profits amount for a pre-acquisition accounting period

- 42 (1) In this Schedule, references to the transferred profits amount for a pre-acquisition accounting period of the purchaser are references to –
- (a) the transferred profits amount for the accounting period of the seller which coincides with the pre-acquisition accounting period of the purchaser, or

- (b) if there is no coinciding accounting period of the seller, the overlapping proportion of the transferred profits amount for each accounting period of the seller that overlaps with the pre-acquisition accounting period of the purchaser.
- (2) The overlapping proportion, in relation to an accounting period of the seller, is the same as the proportion that the part of the seller's accounting period that overlaps with the pre-acquisition accounting period of the purchaser bears to the whole of the seller's accounting period.

“Unused transferred profits amount”

- 43 (1) This paragraph applies for the purposes of Step 1 of paragraph 41.
- (2) If the loss period is the first activation period, the reference to the “unused transferred profits amount” for a pre-acquisition accounting period is a reference to the transferred profits amount for that period.
- (3) If the loss period is a post-activation period, the reference to the “unused transferred profits amount” for a pre-acquisition accounting period is a reference to the amount equal to –
- (a) the transferred profits amount for that period, less
 - (b) the activated transferred profits amount allocated to that period in the first activation period or an earlier post-activation period.

“Available activated TTH amount”

- 44 (1) This paragraph applies for the purposes of allocating an amount to a pre-acquisition accounting period under Step 3 of paragraph 41.
- (2) The “available activated TTH amount” held by the purchaser for the loss period, is an amount equal to –
- (a) the total activated TTH amount for the period, less
 - (b) the total of the activated transferred profits amounts allocated under paragraph 41 to later pre-acquisition accounting periods.
- (3) In sub-paragraph (2)(b) the reference to “later pre-acquisition accounting periods” is a reference to pre-acquisition accounting periods that begin after the period mentioned in sub-paragraph (1).

“Closing balance of activated TTH”

- 45 The closing balance of activated TTH for an accounting period is –
- (a) the total activated TTH amount held by the purchaser for that period, less
 - (b) the amount applied in accordance with paragraph 22 for that period.

“Closing balance of the total TTH amount”

- 46 The closing balance of the total TTH amount for an accounting period is –
- (a) the total TTH amount, less
 - (b) the total of the amounts (if any) applied in accordance with paragraph 22 for earlier accounting periods.

PART 7

SUPPLEMENTARY CHARGE: RECALCULATION OF ADJUSTED RING FENCE PROFITS

Recalculation: steps

- 47 (1) This paragraph applies for the purposes of recalculating the transferred adjusted ring fence profits amount for the pre-acquisition accounting period mentioned in paragraph 23(1) (for the purposes of paragraph 23(2)(b)).
- (2) The recalculated transferred adjusted ring fence profits amount for the period is the aggregate of –
- (a) the reduced profits amount (see paragraphs 48 and 49), and
 - (b) the adjusted finance cost amount for the loss period mentioned in paragraph 23(1) (see paragraph 52).
- (3) But if the amount given by taking the steps in sub-paragraph (2) is a negative amount, the recalculated transferred adjusted ring fence profits amount is nil.
- 48 (1) To determine the “reduced profits amount” –
- (a) take the transferred adjusted ring fence profits amount for that period (determined in accordance with paragraph 24), and
 - (b) reduce that amount, but not below nil, by the lower of –
 - (i) the amount applied in accordance with paragraph 22(2)(b) or (3)(b) for the period, and
 - (ii) the activated ARFP amount (see paragraph 50).
- (2) This paragraph is subject to paragraph 49.
- 49 (1) This paragraph (instead of paragraph 48) applies if the percentage specified in section 330(1) of CTA 2010 for the pre-acquisition accounting period mentioned in paragraph 23(1) is greater than 20%.
- (2) To determine the “reduced profits amount” –
- (a) calculate the total of –
 - (i) the activated ARFP amount for the period, and
 - (ii) the ARFP uplift amount for the period (see paragraph 51),
 - (b) reduce the amount given by paragraph (a) by the amount applied in accordance with paragraph 22(2)(b) or (3)(b) for the period.

“Activated ARFP amount”

- 50 (1) The “activated ARFP amount” for a pre-acquisition accounting period is the amount equal to –

$$(A/T) \times \text{ARFP}$$

where –

A is the amount applied in accordance with paragraph 22(2)(b) or (3)(b) for the pre-acquisition accounting period,

T is the unused transferred profits amount for that period, and

ARFP is the amount of the transferred adjusted ring fence profits for that period, determined in accordance with paragraph 24 and subject to sub-paragraph (4) (reduction to take account of any earlier claims).

- (2) In sub-paragraph (1), “unused transferred profits amount” has the same meaning as it has for the purposes of Step 1 of paragraph 41 (see paragraph 43).
- (3) Sub-paragraph (4) applies if, in respect of an earlier loss period –
 - (a) an activated transferred profits amount for the pre-acquisition accounting period mentioned in paragraph 23(1) is applied in accordance with paragraph 22(2)(b) or (3)(b), and
 - (b) a corresponding repayment is determined under paragraph 23(2) (an “earlier repayment”).
- (4) The amount of the transferred adjusted ring fence profits for the pre-acquisition accounting period is treated, for the purposes of sub-paragraph (1), as being reduced by an amount equal to the total of the activated ARFP amounts for that period for the purposes of each earlier repayment.

“ARFP uplift amount”

- 51 The “ARFP uplift amount” for a pre-acquisition accounting period is the amount equal to –

$$((SC - 20\%)/SC) \times A$$

where –

“SC” is the percentage specified in section 330(1) of CTA 2010 for the pre-acquisition accounting period, and

A is the amount applied in accordance with paragraph 22(2)(b) or (3)(b) for that period.

“Adjusted finance cost amount”

- 52 The “adjusted finance cost amount” for a loss period is the amount equal to –

$$(A/L) \times FC$$

where –

“FC” is the amount of the financing costs brought into account under section 330(3) of CTA 2010 for the purposes of determining the purchaser’s adjusted ring fence profits for the loss period,

“L” is the amount of the decommissioning loss in the loss period (see paragraph 20(d)(i) and (ii)), and

A is the amount applied in accordance with paragraph 22(2)(b) or (3)(b) for the pre-acquisition accounting period mentioned in paragraph 23(1).

PART 8

TTH ELECTIONS: CONDITIONS AND PROCEDURE

Election conditions: associated companies

- 53 (1) A TTH election may only be made if—
- (a) the seller and purchaser are not associated with one another,
 - (b) the corporate restructuring condition is met, or
 - (c) the hive down condition is met.
- (2) The “corporate restructuring condition” is met if—
- (a) the seller and purchaser are associated with one another at the time the election is made,
 - (b) another TTH election (the “third party election”) is made, in respect of the TTH asset, between two companies that are not associated with one another, and
 - (c) the third party election is made within—
 - (i) the period of 90 days ending with the effective date of the TTH election made between the seller and the purchaser, or
 - (ii) the period of 90 days beginning with that date.
- (3) The “hive down” condition is met if the seller and purchaser—
- (a) are associated with one another at the time the election is made, but
 - (b) cease to be associated with one another before the end of the period of 90 days beginning with the effective date of the TTH election.
- (4) See paragraph 94 of this Schedule and section 271 of CTA 2010 for further provision about the meaning of “associated companies”.

Election conditions: decommissioning relief agreements

- 54 (1) If the seller is a party to a decommissioning relief agreement, a TTH election may only be made if the agreement provides for the total TTH amount to be disregarded when determining the reference amount.
- (2) In this Schedule, “decommissioning relief agreement” and “reference amount” have the meaning given by section 80(2) of FA 2013.

Timing of election

- 55 (1) A TTH election in respect of a TTH asset may not be made after the later of the end of—
- (a) 31 March 2019, or
 - (b) the period of 90 days beginning with the day on which the interest in a UK oil licence, referred to in paragraph 1, is acquired by the purchaser.
- (2) Paragraph 3 of Schedule 1A to TMA 1970 (amendment of claims and elections) does not apply in relation to a TTH election (but see paragraph 72 (amounts discovered to be incorrect)).

Content

- 56 (1) The election must contain such information and declarations as an officer of Revenue and Customs may reasonably require.
- (2) The officer may, in particular, require information and declarations as to –
- (a) the TTH asset to which the election relates,
 - (b) the amount of the seller’s taxable profits that are represented by the total TTH amount and each transferred profits amount,
 - (c) the rate of tax chargeable on those taxable profits, and the amount of tax paid,
 - (d) any decommissioning security agreement which relates to the TTH oil field and the seller, and any estimate of the decommissioning costs for the field determined for the purposes of any such agreement, and
 - (e) any decommissioning relief agreement to which the seller is a party (see paragraph 54).

Timing of an enquiry: cases where the corporate restructuring condition is met

- 57 (1) This paragraph applies if –
- (a) a TTH election is made, and
 - (b) the corporate restructuring condition or the hive down condition is met in relation to that election.
- (2) Paragraph 5(2)(a) of Schedule 1A to TMA 1970 (power to enquire into claims: time limits) has effect in relation to the election as if the reference in that provision to the day on which the claim was made were a reference to –
- (a) in a case where the corporate restructuring condition is met, the day on which the third party election was made;
 - (b) in a case where the hive down condition is met, the day on which the seller and the purchaser ceased to be associated with one another.

PART 9

TTH ELECTIONS: APPROVAL

Approval notice

- 58 An officer of Revenue and Customs may approve the TTH election by giving notice in writing (an “approval notice”) to the seller and the purchaser.

Refusal notice

- 59 (1) Approval of an election may be refused, by giving notice in writing to the seller and the purchaser (a “refusal notice”), if it appears to an officer of Revenue and Customs that the refusal is necessary for the protection of the revenue.
- (2) See paragraph 90 for provision about appeals against a decision to refuse approval of an election under this paragraph.

Deemed approval

- 60 (1) If no approval notice, refusal notice or enquiry notice is given, in respect of the TTH election, before the end of the period mentioned in paragraph 5(2) of Schedule 1A to TMA 1970 (time limit for opening an enquiry), the election is deemed to have been approved by an officer of Revenue and Customs at the end of that period.
- (2) In sub-paragraph (1), the reference to an “enquiry notice” is a reference to a notice under paragraph 5(1) of Schedule 1A to TMA 1970 (intention to enquire into a claim or election).

Conditions of approval

- 61 The purchaser is required, as a condition of the approval of the election –
- (a) to comply with the profit tracking requirements in relation to –
 - (i) the accounting period in which the interest in a UK oil licence, referred to in paragraph 1, is acquired by the purchaser, and
 - (ii) each subsequent accounting period; and
 - (b) to keep and preserve records, in accordance with such requirements as may be specified by an officer of Revenue and Customs, for the purposes of giving effect to this Schedule.

Profit tracking requirements

- 62 The purchaser complies with the profit tracking requirements in relation to an accounting period if the purchaser’s company tax return for the period is accompanied by a statement of the amount of profit or loss that is attributable to the TTH asset for that period (the “tracked profit or loss amount”).
- 63 (1) For the purposes of determining the tracked profit or loss amount for an accounting period, just and reasonable apportionments are to be made of the receipts, expenses, assets and liabilities of –
- (a) the purchaser, and
 - (b) any other company that is associated with the purchaser and has an interest in the TTH asset.
- (2) For the purposes of this paragraph, apportionments are to be made in accordance with the requirements (if any) specified by an officer of Revenue and Customs.

Senior tracking officers

- 64 (1) The purchaser’s senior tracking officer must –
- (a) take reasonable steps to ensure that the tracked profit and loss amount attributable to a TTH asset for each tracking period is determined in accordance with paragraph 63, and
 - (b) provide the Commissioners for Her Majesty’s Revenue and Customs with a certificate as to compliance with paragraph (a).
- (2) For each tracking period, the purchaser must notify the Commissioners for Revenue and Customs of the name of each person who was its senior tracking officer at any time during the period.

- (3) The certificate under sub-paragraph (1)(b), and the notice under sub-paragraph (2), must be given –
- (a) in the form and manner specified by an officer of Revenue and Customs, and
 - (b) on or before the filing date for the purchaser’s tax return for the tracking period (see paragraph 14 of Schedule 18 to FA 1998).
- (4) A “tracking period” in relation to a TTH asset means –
- (a) the accounting period in which the TTH asset is acquired by the purchaser, and
 - (b) each subsequent accounting period for which the TTH election in respect of that asset has effect in relation to the purchaser.
- 65 (1) The purchaser’s “senior tracking officer” is the officer of the purchaser or of an associated company who, in the purchaser’s reasonable opinion, has overall responsibility for the purchaser’s financial accounting arrangements.
- (2) In this section, “officer”, in relation to a company, means –
- (a) a director,
 - (b) a manager,
 - (c) a secretary, and
 - (d) any other person managing or purporting to manage any of the company’s affairs.
- 66 (1) The senior tracking officer is liable to a penalty of £5000 if the officer, without reasonable excuse –
- (a) fails to comply with paragraph 64(1)(a) at any time in a tracking period, or
 - (b) fails to provide a certificate in accordance with paragraph 64(1)(b) and (3).
- (2) The senior tracking officer is not liable to more than one penalty under paragraph 66(1)(a) in respect of the TTH asset and the same tracking period.
- (3) If the purchaser, without reasonable excuse, fails to give a notice in accordance with paragraph 64(2) and (3), the purchaser is liable to a penalty of £5000.
- (4) If (but for this sub-paragraph) more than one person would be liable for a penalty under sub-paragraph 66(1)(a) or (b) in respect of the TTH asset and a tracking period, only the person who became the senior tracking officer latest in the year is liable to such a penalty.
- 67 (1) Where a senior tracking officer, or the purchaser, becomes liable for a penalty under paragraph 66 –
- (a) Her Majesty’s Revenue and Customs may assess the penalty, and
 - (b) if they do so, they must notify the officer liable for the penalty.
- (2) An assessment of a penalty under this Part for a failure in respect of a tracking period may not be made –
- (a) more than 6 months after the failure first comes to the attention of an officer of Revenue and Customs, or
 - (b) more than 6 years after the filing date for the purchaser’s tax return for the tracking period (see paragraph 14 of Schedule 18 to FA 1998).

- (3) See paragraph 90 for provision about appeals against a penalty under paragraph 66.
- 68 (1) A penalty under paragraph 66 must be paid –
- (a) before the end of the period of 30 days beginning with the date on which the notification under paragraph 67 was issued, or
 - (b) if a notice of appeal against the penalty is given, before the end of the period of 30 days beginning with the date on which the appeal is determined or withdrawn.
- (2) A penalty under this Schedule may be enforced as if it were income tax charged in an assessment and due and payable or, in the case of the purchaser, corporation tax charged in an assessment and due and payable.

PART 10

TTH ELECTIONS: EFFECTIVE DATE AND WITHDRAWAL

Effective date of a TTH election

- 69 (1) A TTH election in respect of a TTH asset –
- (a) has effect, if it is approved in accordance with paragraph 58, from the date of completion of the sale of the interest in the UK oil licence concerned (the “effective date”),
 - (b) continues to have effect indefinitely in relation to seller, and
 - (c) continues to have effect in relation to the purchaser unless it is withdrawn in accordance with the provisions of this Schedule.

Withdrawal of a TTH election by an officer of Revenue and Customs

- 70 (1) A TTH election ceases to have effect in relation to the purchaser if –
- (a) the purchaser, without reasonable excuse, persistently fails to comply with either of the conditions mentioned in paragraph 61, and
 - (b) an officer of Revenue and Customs gives notice to the purchaser of the withdrawal of the election.
- (2) If notice is given under sub-paragraph (1), the TTH election ceases to have effect in relation to the purchaser for the accounting period in which the notice is given and each subsequent accounting period.
- (3) A notice given under sub-paragraph (1) does not affect any claim made by the purchaser under paragraph 22 or 23 for a loss period ending before the notice is given.
- (4) See paragraph 90 for provision about appeals against a decision to withdraw an election under this paragraph.

PART 11

TTH ELECTIONS: INACCURACIES

Penalties for errors

- 71 If a document provided for the purposes of making a TTH election contains an inaccuracy which is, or results in, an overstatement of the total TTH amount, Schedule 24 to FA 2007 has effect as if –

- (a) the seller (and not the purchaser) is treated as giving the document to Her Majesty's Revenue and Customs,
- (b) the inaccuracy is treated (so far as would not otherwise be the case) as leading to a false or inflated claim to repayment of tax, and
- (c) "the potential lost revenue" in respect of the inaccuracy is an amount equal to 10% of the amount by which the total TTH amount is overstated.

Amendment of TTH election: amounts discovered to be incorrect

- 72 (1) This paragraph applies if an officer of Revenue and Customs discovers that a TTH election incorrectly states an amount that affects, or may affect, the amount in respect of which the purchaser may make a claim under –
- (a) paragraph 22 (effect of trade loss relief provisions), or
 - (b) paragraph 23 (supplementary charge: repayment of tax).
- (2) The officer –
- (a) may amend the TTH election to correct that amount, subject to paragraph 73, and
 - (b) must give notice to the purchaser of an amendment under paragraph (a).
- (3) But the power to amend the TTH election under this paragraph may only be exercised if, at the time the election was approved by an officer of Revenue and Customs (see paragraph 58), the officer could not have been reasonably expected, on the basis of the information made available to the officer before that time, to be aware that the amount stated was incorrect.
- (4) An amendment under this paragraph may not be made more than 12 months after information that, in the opinion of an officer of Revenue and Customs, justifies the correction of the TTH election, comes to the officer's attention.
- (5) An amendment under this paragraph is to be ignored for the purposes of the application of Part 3 of this Schedule (effect of a TTH election on the seller).
- (6) See paragraph 90 for provision about appeals against a decision under this paragraph.
- 73 (1) This paragraph applies if, before the correction under paragraph 72 is made, an activated transferred profits amount for a pre-acquisition accounting period has been applied in accordance with paragraph 22(2)(b) or (3)(b).
- (2) An amendment made under paragraph 72(2) may not –
- (a) reduce the transferred profits amount for that pre-acquisition accounting period by an amount which is greater than the amount that has been applied, in respect of loss periods ending before the determination is made, in accordance with paragraph 22 for the pre-acquisition accounting period, or
 - (b) reduce the total TTH amount by an amount which is greater than the total of the amounts that have been applied in accordance with paragraph 22 in respect of loss periods ending before the determination is made.

PART 12

CHARGEABLE GAINS

Transferred tax history is not to be regarded as an asset

- 74 Where the seller and the purchaser jointly make a TTH election in respect of the TTH asset, the transfer of tax history is not to be treated as the disposal or acquisition of an asset for the purposes of TCGA 1992.

Consideration for transferred tax history to be treated as consideration for the licence interest

- 75 The amount or value of consideration for the transfer of tax history is to be treated as part of the consideration for the licence interest for the purposes of—
- (a) computing the chargeable gain or allowable loss accruing on the disposal (or on any subsequent disposal) of the licence interest (see section 8 of TCGA 1992), and
 - (b) computing the disposal value of the licence interest, on its disposal, for the purposes of Part 5 of CAA 2001 (mineral extraction allowances).

Market value of the licence interest: value of transferred tax history to be taken into account

- 76 The value of the transfer of tax history is to be taken into account in determining the market value of the licence interest for the purposes of—
- (a) section 17 of TCGA 1992 (disposals and acquisitions treated as being made at market value);
 - (b) Part 5 of CAA 2001, if the disposal value of the licence interest for the purposes of that Part is the market value of the licence interest at the time of that disposal (see section 423 of CAA 2001).

Licence swaps: references to disposal include references to transfer of tax history

- 77 For the purposes of the application of sections 195A to 196 of TCGA 1992 (oil licence swaps) in relation to the disposal of the licence interest by the seller to the purchaser, references in those sections to the disposal are treated as including references to the transfer of tax history.

Interpretation of this Part

- 78 (1) References in this Part to “the transfer of tax history” are references to—
- (a) the seller, in consequence of the TTH election, ceasing to be entitled to take the transferred profits for an accounting period into account for certain corporation tax purposes in the circumstances specified in Part 3 of this Schedule, and
 - (b) the purchaser, in consequence of the TTH election, acquiring an entitlement, in the circumstances specified in Part 4 of this Schedule, to apply an amount of the transferred profits for the purposes of the trade loss relief provisions and to a corresponding repayment of supplementary charge.
- (2) References in this Part to “the licence interest” are references to the interest in a UK oil licence referred to in paragraph 1.

PART 13

SUPPLEMENTARY

Multiple interests in the same oil field

- 79 (1) This paragraph applies if—
- (a) interests in more than one UK oil licence are sold by the seller to the purchaser at the same time, and
 - (b) the seller and the purchaser would be entitled to jointly make a TTH election in respect of more than one interest in the same oil field that falls within both licensed areas.
- (2) The seller and purchaser may jointly make a TTH election in respect of both interests in the oil field.
- (3) If an election is made in accordance with this paragraph, the interests mentioned in sub-paragraph (2) are to be treated as a single interest for the purposes of this Schedule (and references in this Schedule to “the TTH asset” are to be construed accordingly).

Multiple TTH elections

- 80 (1) This paragraph applies if, in a loss period, more than one TTH election in respect of the TTH asset has effect in relation to the purchaser.
- (2) For the purposes of paragraph 41 (allocation of activated TTH to an accounting period)—
- (a) references to the unused transferred profits amount for an accounting period are to be treated as references to the total of the unused transferred profits amounts for that period in respect of each of the TTH elections, and
 - (b) the amount in respect of a later TTH election is to be allocated to an accounting period before the amount which is subject to an earlier TTH election.

Onward sale: application of paragraphs 82 to 89

- 81 Paragraphs 82 to 89 apply if—
- (a) the purchaser (referred to in this paragraph as “the first purchaser”) and the seller jointly make a TTH election (the “first TTH election”) in respect of an interest (the “first TTH interest”) in an oil field or in part of an oil field,
 - (b) the first purchaser subsequently sells to another company (“the second purchaser”) an interest in a UK oil licence which applies to the area which includes that oil field, or that part of an oil field, and
 - (c) the first purchaser and the second purchaser jointly make a TTH election (the “subsequent TTH election”) in respect of an interest (the “subsequent TTH interest”) in that oil field, or in that part of an oil field.

Onward sale: election to treat the original TTH amount as eligible ring fence profits

- 82 (1) The first purchaser and the second purchaser may elect for the provisions of this Schedule to apply, for the purposes of the subsequent TTH election, as

if the original TTH amount for all relevant accounting periods were an amount of the first purchaser's eligible ring fence profits for that period.

- (2) Sub-paragraph (1) is subject to paragraphs 84 to 88.
 - (3) In this Part of this Schedule, "relevant accounting period" means a pre-acquisition accounting period of the first purchaser for which there is, immediately before the effective date of the subsequent TTH election, an unused transferred profits amount.
 - (4) In this Part of this Schedule, references to the "original TTH amount" mean, in relation to a relevant accounting period –
 - (a) the unused transferred profits amount for that period, or
 - (b) if the first TTH interest is not the same as the subsequent TTH interest, the relevant proportion of that amount for that period.
 - (5) For the purposes of sub-paragraph (4)(b), the "relevant proportion" is the proportion that the subsequent TTH interest bears to the first TTH interest.
 - (6) In this paragraph, references to the unused transferred profits amount for an accounting period are references to –
 - (a) the transferred profits amount for that period, less
 - (b) the activated transferred profits amounts allocated to that period under paragraph 41 in respect of a loss period of the first purchaser.
- 83 Paragraphs 84 to 88 apply if the first purchaser and the second purchaser make an election under paragraph 82.
- 84 The original TTH amount for an accounting period ceases to be treated, for the purposes of the first TTH election, as a transferred profits amount for that period in relation to the first purchaser.
- 85 (1) The total TTH amount may not include an amount representing the first purchaser's eligible ring fence profits for an accounting period unless it also includes an amount representing, in respect of each relevant accounting period, the original TTH amount for that period.
- (2) Paragraph 11 (consecutive accounting periods) does not apply in relation to an amount representing an original TTH amount for a relevant accounting period (but see sub-paragraph (3)).
 - (3) The total TTH amount may not include an amount representing the original TTH amount for a particular accounting period unless it also includes an amount representing the original TTH amount for the next following relevant accounting period.
 - (4) If the original TTH amount exceeds the total TTH amount, the transferred profits amount for the earliest relevant accounting period must be an amount equal to –
 - (a) the total TTH amount, less
 - (b) the transferred profits amount for later relevant accounting periods.
 - (5) For the purposes of paragraph 12 (the transferred profits amount) –
 - (a) references to the "earliest period" are to be treated as references to the earliest accounting period for which there is a transferred profits amount by reason of the first purchaser's eligible ring fence profits for that period (and not by reason of an original TTH amount for that period), and

- (b) the reference in sub-paragraph (2) to the TTH balance for the earliest period is to be treated as a reference to the TTH balance less the transferred profits amounts for each relevant accounting period.
- 86 (1) The provisions of this Schedule apply, for the purposes of the subsequent TTH election, as if—
- (a) the transferred adjusted ring fence profits amount for each relevant accounting period, or
 - (b) if the first TTH interest is not the same as the subsequent TTH interest, the relevant proportion of that amount for that period,
- were an amount of the first purchaser’s eligible adjusted ring fence profits for that period.
- (2) For the purposes of sub-paragraph (1)(b), “the relevant proportion” means the proportion that the subsequent TTH interest bears to the first TTH interest.
- 87 In the application of this Schedule for the purposes of the subsequent TTH election—
- (a) in sub-paragraphs (2)(b) and (3)(b) of paragraph 27 (TTH activation event), and in paragraph 28 (decommissioning expenditure amount), references to a post-acquisition accounting period of the purchaser include references to a post-acquisition accounting period of the first purchaser;
 - (b) references in this Schedule to a pre-acquisition accounting period of the purchaser include references to a pre-acquisition accounting period of the first purchaser;
 - (c) references in paragraphs 82 to 86 to an amount of the first purchaser’s eligible ring fence profits do not include references to an original TTH amount.
- 88 In the case of a sale by the second purchaser, or a subsequent sale, of an interest within paragraph 81(c) in respect of which the parties make a TTH election—
- (a) references in paragraph 85 to the original TTH amount are references to the original TTH amount in relation to each election, and
 - (b) amounts in relation to earlier elections are to be applied for the purposes of paragraph 85(1) and (3) before amounts in relation to later elections.

Onward sale: tracking

- 89 (1) This paragraph applies if, after the effective date of the subsequent TTH election, the first purchaser continues to be liable for the decommissioning costs, or for a proportion of the decommissioning costs, for the original TTH interest.
- (2) In the application of this Schedule for the purposes of the subsequent TTH election, references to the “purchaser” in paragraph 63 are to be treated, in respect of the period beginning with the effective date of the subsequent TTH election, as including references to the second purchaser.

Appeals

- 90 (1) A person may appeal against—

- (a) a decision to refuse to approve a TTH election under paragraph 59(1);
 - (b) a decision that a penalty under paragraph 66 is payable by that person;
 - (c) a decision to withdraw a TTH election under paragraph 70;
 - (d) a decision to amend a TTH election under paragraph 72 (amounts discovered to be incorrect).
- (2) Notice of an appeal must be given –
 - (a) in writing,
 - (b) before the end of the period of 30 days beginning with the date on which notice of the decision is given, and
 - (c) to an officer of Revenue and Customs.
- (3) Notice of an appeal must state the grounds of appeal.
- (4) On an appeal that is notified to the tribunal, the tribunal may confirm or cancel the decision.
- (5) If a decision under paragraph 70 (withdrawal) is cancelled, the TTH election is to be treated as having had continuing effect (subject to any further appeal).
- (6) Subject to this paragraph and (in the case of an appeal within paragraph sub-paragraph (1)(b)) paragraph 68, the provisions of Part 5 of TMA 1970 relating to appeals have effect in relation to appeals under this paragraph as they have effect in relation to appeals against an assessment to corporation tax.

Anti-avoidance

- 91 (1) If a person enters into arrangements within sub-paragraph (2), an officer of Revenue and Customs may –
- (a) amend a TTH election, or
 - (b) amend or disallow a claim,
- to secure that the election or claim has effect as if the arrangements had not been entered into.
- (2) Arrangements are within this sub-paragraph if it is reasonable to regard the arrangements as –
- (a) designed to secure that an entitlement to a repayment, or an increased repayment, of tax by reason of the application of any provision of this Schedule, arises earlier than would (apart from the arrangements) be the case,
 - (b) circumventing the intended limits of the provisions of this Schedule on an amount that is relevant for the purposes of determining a repayment of tax by reference to those provisions, or
 - (c) otherwise exploiting shortcomings in those provisions.
- (3) In this paragraph, “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- 92 (1) If relief is given to a person under the trade loss relief provisions by reference to an amount of the seller’s ring fence profits which (by reason of the application of the provisions of this Schedule) is treated as if it were an

amount of the purchaser's profits, no relief may be given to any other person by reference to the same amount.

- (2) If a repayment of supplementary charge is made to a person by reference to an amount of the seller's adjusted ring fence profits which (by reason of the application of the provisions of this Schedule) is treated as if it were an amount of the purchaser's adjusted ring fence profits, no repayment may be made to any other person by reference to the same amount.

PART 14

INTERPRETATION

Introductory

93 The following definitions apply for the purposes of this Schedule.

94 Expressions used in this Schedule that are defined for the purposes of Part 8 of CTA 2010 (oil activities) have the same meaning in this Schedule as in Part 8 of that Act.

“UK oil licence”

95 “UK oil licence” means a licence granted under –
 (a) Part 1 of the Petroleum Act 1998, or
 (b) the Petroleum (Production) Act (Northern Ireland) 1964 (c.28 (N.I.)).

“Licensed area” and “transferred oil field”

96 In this Schedule –
 (a) references to the “licensed area” are references to the area to which the UK oil licence mentioned in paragraph 1 applies, and
 (b) references to a “transferred oil field” are references to an oil field, or such part of an oil field, that falls within the licensed area.

The seller’s “reference accounting period”

- 97 (1) The seller's “reference accounting period” is the accounting period which is, at the effective date of the election, the seller's most recent qualifying accounting period in respect of which the amendment period has ended.
- (2) The “amendment period”, in relation to an accounting period, is 12 months beginning with the filing date for the company tax return for the accounting period.
- (3) In this paragraph “filing date” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 14 of that Schedule).

The purchaser’s “reference accounting period”

- 98 (1) The “purchaser's reference accounting period” means –
 (a) an accounting period of the purchaser that begins with the same date as, and ends with the same date as, the seller's reference accounting period, or

- (b) if no accounting period of the purchaser falls within paragraph (a), the earliest accounting period of the purchaser that overlaps with the seller's reference accounting period.
- (2) See paragraph 101 for provision about accounting periods prior to the incorporation of the purchaser.

The seller's "pre-transfer accounting periods"

- 99 Each of the following is a "pre-transfer accounting period" of the seller –
- (a) the reference accounting period (see paragraph 97), and
 - (b) each preceding accounting period.

The purchaser's "pre-acquisition accounting periods" and "post-acquisition accounting periods"

- 100 (1) Each of the following is a "pre-acquisition accounting period" of the purchaser –
- (a) the purchaser's reference accounting period, and
 - (b) each preceding accounting period.
- (2) Each of the following is a "post-acquisition accounting period" of the purchaser –
- (a) the first accounting period after the purchaser's reference accounting period,
 - (b) each subsequent accounting period, and
 - (c) each period which is a notional accounting period for the purposes of section 165 or section 416ZA of CAA 2001.
- (3) See paragraph 101 for provision about accounting periods prior to the incorporation of the purchaser.

Accounting periods prior to the incorporation of the purchaser

- 101 (1) This paragraph applies if the date on which the purchaser is incorporated (the "incorporation date") falls after the end of the seller's reference accounting period.
- (2) The provisions of this Schedule have effect as if the purchaser had –
- (a) an accounting period of 12 months ending on the day before the incorporation date, and
 - (b) successive accounting periods of 12 months in the preceding period.

"Transferred profits amount" and "activated transferred profits amount"

- 102 In this Schedule –
- (a) references to the "transferred profits amount" for an accounting period of the seller are references to the amount representing the seller's ring fence profits for that period which forms part of the total TTH amount, and
 - (b) references to the "activated transferred profits amount" for an accounting period means the amount allocated to that period under paragraph 41.

“Trade loss relief provisions”

- 103 “Trade loss relief provisions” means 37 to 44 of CTA 2010 (trade losses: carry back relief etc).

SCHEDULE 8

Section 13

LEASES

PART 1

FINANCE LEASES: AMENDMENTS AS A RESULT OF CHANGES TO ACCOUNTING STANDARDS

- 1 (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) In section 67 (plant or machinery treated as owned by person entitled to benefit of contract, etc), in subsection (2B), for the words from “falls (or would fall)” to the end substitute “–
- (a) falls (or would fall) to be treated by that person in accordance with generally accepted accounting practice as a finance lease, or
 - (b) if that person is a lessee under a right-of-use lease, would fall to be treated in that person’s accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the lease falls to be so treated.”
- (3) In section 70E (disposal events and disposal values), in subsection (2D)(a), after “finance charges” insert “, or interest expenses,”.
- (4) In section 70YA (changes in accountancy classification of long funding leases)–
- (a) in subsection (1)–
 - (i) omit the “and” at the end of paragraph (a), and
 - (ii) after paragraph (b) insert “and
 - (c) the change of classification is not as the result of a change to an accounting standard which must be adopted by the person (including where such a change is adopted for periods before the first period for which it must be adopted).”, and
 - (b) after subsection (10) insert–

“(11) In this section “accounting standard” means any accounting standard issued or recognised by–

 - (a) the Accounting Standards Board (or successor body), or
 - (b) the International Accounting Standards Board (or successor body).”
- (5) In section 70YI (general definitions), in subsection (1)–
- (a) for the definition of “long funding finance lease” substitute–

““long funding finance lease” means–

-
- (a) in relation to any person, a long funding lease that meets the finance lease test by virtue of section 70N(1)(a), or
 - (b) in relation to a lessee, a right-of-use lease which is a long funding lease that meets –
 - (i) the lease payments test in section 70O, or
 - (ii) the useful economic life test in section 70P;”, and
 - (b) at the appropriate place insert –
 - ““right-of-use lease”, in relation to a lessee, means a lease in respect of which, under generally accepted accounting practice –
 - (a) a right-of-use asset falls (or would fall) at the commencement date of the lease to be recognised for accounting purposes in the accounts of the lessee, or
 - (b) a right-of-use asset would fall to be so recognised but for the lessee granting a sublease of the leased asset;”.
 - (6) In section 228J (anti-avoidance: plant or machinery subject to further operating lease), in subsection (7) –
 - (a) for paragraph (a) substitute –
 - “(a) the lease –
 - (i) falls, under generally accepted accounting practice, to be treated in that person’s accounts as a finance lease or loan, or
 - (ii) if that person is a lessee under a right-of-use lease, would fall to be treated in that person’s accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the lease falls to be so treated;”, and
 - (b) in paragraph (b), for the words from “fall” to the end substitute “ –
 - (i) fall, under generally accepted accounting practice, to be treated as a finance lease or loan, or
 - (ii) if that person is a lessee under a right-of-use lease, would fall to be treated in that person’s accounts as a finance lease were that person required under generally accepted accounting practice to determine whether the arrangements fall to be so treated.”
- 2 (1) ITTOIA 2005 is amended as follows.
- (2) In section 148G (lessee under long funding finance lease: limit on deductions), in subsection (2), after “finance charges” insert “, or interest expenses;”.
- (3) After that section insert –
- “148GA Lessee under long funding finance leases: right-of-use leases**
- (1) This section applies if –

-
- (a) for the whole or part of any period of account, a person carrying on a trade, profession or vocation is the lessee of any plant or machinery under a right-of-use lease that is a long funding finance lease,
 - (b) there is a change in the amounts payable under the lease, and
 - (c) as a result of the change and in accordance with generally accepted accounting practice –
 - (i) a remeasurement of the lease liability is shown in the person’s accounts for the period of account, or
 - (ii) a deduction is shown in those accounts other than as an interest expense under the lease or an amount of depreciation, or an impairment, in respect of the right-of-use asset arising from the lease.
- (2) In calculating the profits of the person’s trade, vocation or profession for the period of account, the amount deducted in respect of amounts payable under the lease (after taking account of any limitation as a result of section 148G) is to be increased or decreased so as to take account of the remeasurement or deduction mentioned in subsection (1)(c).
- (3) No adjustment is to be made under subsection (2) if the remeasurement or deduction results in the person being treated by section 70D of CAA 2001 (long funding finance lease: additional expenditure: allowances for lessee) as having incurred further capital expenditure on the provision of the plant or machinery.”
- 3 (1) CTA 2010 is amended as follows.
- (2) In section 288 (sale and lease-back) –
- (a) in subsection (5), for sub-paragraph (a) substitute –
 - “(a) falls, in accordance with generally accepted accounting practice, to be treated in the accounts of the lessee –
 - (i) as a finance charge, or
 - (ii) as an interest expense where any such expenditure would fall to be treated in those accounts as a finance charge if the lessee were required under generally accepted accounting practice to determine whether that expenditure should be so treated,
 - (aa) if the lease is a right-of-use lease which is a long funding finance lease, falls, in accordance with generally accepted accounting practice, to be treated in the accounts of the lessee as an interest expense, or”, and
 - (b) in subsection (9), for the definition of “long funding operating lease” substitute –
 - “long funding finance lease”, “long funding operating lease” and “right-of-use lease” have the meanings given in Part 2 of CAA 2001 (see section 70YI(1) of that Act),”.
- (3) In section 331 (meaning of “financing costs” etc) –

- (a) in subsection (3), after paragraph (d) insert –
- “(da) if the company is the lessee under a right-of-use lease which is a long funding finance lease, any costs falling, in accordance with generally accepted accounting practice, to be treated in the accounts of the company as interest expenses,”
- (b) in subsection (4), in paragraph (a), after “finance charge” insert “, or an interest expense,”
- (c) for subsection (6) substitute –
- “(6) In this section “finance lease” means a lease which –
- (a) under generally accepted accounting practice –
- (i) falls (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or loan, or
- (ii) is comprised in arrangements which fall (or would fall) to be so treated, or
- (b) if the lease is a right-of-use lease –
- (i) would fall to be treated in those accounts as a finance lease, or
- (ii) is comprised in arrangements which would fall to be so treated,
- were the lessee or person connected with the lessee required under generally accepted accounting practice to determine whether the lease falls, or arrangements fall, to be so treated.”
- (d) in subsection (9) –
- (i) omit the “and” at the end of the definition of “exchange gains” and “exchange losses”, and
- (ii) after that definition insert –
- ““lease” means any arrangements which provide for an asset to be leased or otherwise made available by a person to another person (“the lessee”), and
- “long funding finance lease”, “long funding operating lease” and “right-of-use lease” have the meanings given in Part 2 of CAA 2001 (see section 70YI(1) of that Act).”
- (4) In section 377 (lessee under long funding finance lease: limit on deductions), in subsection (3), after “as finance charges” insert “, or interest expenses,”
- (5) After that section insert –

“377A Lessee under long funding finance leases: right-of-use leases

- (1) This section applies if –
- (a) for the whole or part of any period of account, a company is the lessee of any plant or machinery under a right-of-use lease that is a long funding finance lease,
- (b) there is a change in the amounts payable under the lease, and
- (c) as a result of the change and in accordance with generally accepted accounting practice –
- (i) a remeasurement of the lease liability is shown in the person’s accounts for the period of account, or

-
- (ii) a deduction is shown in those accounts other than as an interest expense under the lease or an amount of depreciation, or an impairment, in respect of the right-of-use asset arising from the lease.
- (2) In calculating the company’s profits for the period of account, the amount deducted in respect of amounts payable under the lease (after taking account of any limitation as a result of section 377) is to be increased or decreased so as to take account of the remeasurement or deduction mentioned in subsection (1)(c).
 - (3) No adjustment is to be made under subsection (2) if the remeasurement or deduction results in the company being treated by section 70D of CAA 2001 (long funding finance lease: additional expenditure: allowances for lessee) as having incurred further capital expenditure on the provision of the plant or machinery.”
- (6) In section 381 (interpretation of Chapter 2 of Part 9), in subsection (2), for the definition of “long funding finance lease” substitute –
- ““long funding finance lease” means –
- (a) in relation to any person, a long funding lease that meets the finance lease test as a result of section 70N(1)(a) of that Act, or
 - (b) in relation to a lessee, a right-of-use lease (see section 70YI(1) of that Act) which is a long funding lease that meets –
 - (i) the lease payments test in section 70O of that Act, or
 - (ii) the useful economic life test in section 70P of that Act;”.
- (7) In section 437 (interpretation of the sales of lessors Chapters) –
- (a) for subsection (4) substitute –

“(4) “Finance lease” means –

 - (a) in relation to any person, a lease that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated in the accounts of that person as a finance lease or loan, or
 - (b) in relation to a lessee under a right-of-use lease, a lease that would fall to be treated in the accounts of the lessee as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease falls to be so treated.”, and
 - (b) in subsection (6), for “and “long funding operating lease”” substitute “, “long funding operating lease” and “right-of-use lease””.
- (8) In section 544 (meaning of “property profits” and “property financing costs”), after subsection (5) insert –
- “(5A) In subsection (5) “finance lease” means –
- (a) in relation to any person, a lease that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated in the accounts of that person as a finance lease or loan, or

- (b) in relation to a lessee under a right-of-use lease, a lease that would fall to be treated in the accounts of the lessee as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease falls to be so treated.
- (5B) In subsection (5A)(b) “right-of-use lease” has the meaning given in Part 2 of CAA 2001 (see section 70YI(1) of that Act).”
- 4 In section 494 of TIOPA 2010 (corporate interest restriction: other interpretation), in subsection (1) –
- (a) for the definition of “finance lease” substitute –
- ““finance lease”, in relation to a company or a worldwide group, a lease which –
- (a) in accordance with generally accepted accounting practice, falls (or would fall) to be treated, in the accounts of the company or the financial statements of the group, as a finance lease or loan, or
- (b) is a right-of-use lease that would fall to be treated in those accounts or financial statements as a finance lease if the company or group were required to determine for accounting purposes whether the lease falls to be so treated;”, and
- (b) insert at the appropriate place –
- ““right-of-use lease” means a lease in respect of which, under generally accepted accounting practice –
- (a) a right-of-use asset falls (or would fall) at the commencement of the lease to be recognised for accounting purposes in the accounts of the lessee, or
- (b) a right-of-use asset would fall to be so recognised but for the lessee having granted a sublease of the leased asset;”.

Commencement

- 5 (1) The amendments made by this Part of this Schedule have effect in relation to periods of account beginning on or after 1 January 2019.
- (2) But, for the purposes of Chapter 7 of Part 10 of TIOPA 2010 (corporate interest restriction: group-interest and group-EBITDA), the amendments made by paragraph 4 have effect in relation to periods of account of a worldwide group (within the meaning given by section 480 of that Act) beginning on or after 1 January 2019.

PART 2

LONG FUNDING LEASES

Amendments to Chapter 6A of Part 2 of CAA 2001

- 6 Chapter 6A of Part 2 of CAA 2001 (plant and machinery allowances: interpretation of provisions about long funding leases) is amended as follows.

Meaning of “short lease”

- 7 (1) In section 70I (“short lease”)—
- (a) in subsections (2) and (9)(d), for “5” substitute “7”, and
 - (b) omit subsections (3) to (8).
- (2) In section 70YF (the “term” of a lease)—
- (a) in subsection (5)(b), for “5” substitute “7”,
 - (b) in subsection (6), for “5” substitute “7”, and
 - (c) omit subsection (7).

The lease payments test: interest rate implicit in lease

- 8 (1) Section 70O (the lease payments test) is amended as follows.
- (2) In subsection (4), for paragraph (b) substitute—
- “(b) if a rate cannot be determined in accordance with paragraph (a), the interest rate implicit in the lease is taken to be 1% above LIBOR.”
- (3) After that subsection insert—
- “(5) For this purpose—
 - (a) LIBOR means the London interbank offered rate at the relevant time for deposits for a term of 12 months in the applicable currency,
 - (b) the relevant time is the inception of the lease, and
 - (c) the applicable currency is the currency in which payments under the lease are payable.”

Commencement

- 9 The amendments made by this Part of this Schedule have effect in relation to leases entered into on or after 1 January 2019.

PART 3

CHANGES TO ACCOUNTING STANDARDS AND TAX ADJUSTMENTS

Repeal of section 53 of FA 2011

- 10 (1) In FA 2011, omit section 53 (leases and changes to accounting standards).
- (2) The amendment made by this paragraph has effect in relation to periods of account beginning on or after 1 January 2019.

- (3) But, for the purposes of Chapter 7 of Part 10 of TIOPA 2010 (corporate interest restriction: group-interest and group-EBITDA), the amendment made by this paragraph has effect in relation to periods of account of a worldwide group (within the meaning given by section 480 of that Act) beginning on or after 1 January 2019.

Transitional provisions following repeal of section 53 of FA 2011: introductory

- 11 (1) This paragraph and paragraphs 12 to 16 modify the effect of the change of basis provisions in relation to periods of account of a lessee beginning on or after 1 January 2019 if the lease is one –
- (a) in respect of which, under generally accepted accounting practice, a right-of-use asset falls (or would fall) to be recognised for accounting purposes in the accounts of the lessee for any period of account (whether beginning before or on or after that date), and
 - (b) which would not fall to be treated in those accounts as a finance lease if the lessee were required under generally accepted accounting practice to determine whether the lease would fall to be treated in those accounts as a finance lease.
- (2) In this Part of this Schedule, “the change of basis provisions” means –
- (a) Chapter 17 of Part 2 and Chapter 7 of Part 3 of ITTOIA 2005 (adjustment income), and
 - (b) Chapter 14 of Part 3 and sections 261 and 262 of CTA 2009 (adjustment on change of basis).

Cases where asset first recognised for period of account beginning on or after 1 January 2019

- 12 (1) This paragraph applies if the right-of-use asset falls (or would fall) to be first recognised for accounting purposes in the accounts of the lessee for the first period of account beginning on or after 1 January 2019 (“the first period of account”).
- (2) Any adjustment income or adjustment expense, or any receipt or expense, treated by any of the change of basis provisions as arising in consequence of a change of accounting policy that results in the right-of-use asset being first recognised for accounting purposes is to be treated as arising over a period (“the spreading period”) determined in accordance with the following steps –

Step 1

Find for each lease the amount by which the credits exceed the debits (or vice-versa). For this purpose, the credits and the debits are the amounts which, under generally accepted accounting practice –

- (a) are taken to equity as adjustments in the accounts of the lessee for the first period of account, and
- (b) are in consequence of the change of accounting policy that results in the right-of-use asset being first recognised for accounting purposes in those accounts.

Step 2

Calculate for each lease the percentage (“the relevant percentage”) that –

- (a) the amount found under Step 1 for the lease bears to
- (b) the total of all amounts found under Step 1 (treating such amounts as positive amounts).

Step 3

Find for each lease the period which results from applying the relevant percentage to the term of the lease that remains unexpired as at the date on which the first period of account begins. For this purpose, the term of a lease is to be determined in accordance with generally accepted accounting practice as it applies for the first period of account.

Step 4

Calculate the mean of all periods found under Step 3.

Step 5

The spreading period is the period equal to the mean calculated under Step 4 beginning with the day on which the first period of account begins.

- (3) An amount to be treated as arising in any period falling wholly or partly in the spreading period is to be determined in proportion to the number of days of the period falling within the spreading period.
- (4) This paragraph is subject to paragraphs 14 and 15 (transfers of leases and cessation of activities).

Cases where asset first recognised for an earlier period of account

- 13 (1) This paragraph applies if the right-of-use asset falls (or would fall) to be first recognised for accounting purposes in the accounts of the lessee for a period of account earlier than the first period of account.
- (2) The change of basis provisions and this Part of this Schedule have effect –
 - (a) as if there were a change of accounting policy with respect to the accounts of the lessee for the first period of account, and
 - (b) as if the right-of-use asset falls (or would fall) to be first recognised for accounting purposes in those accounts.
- (3) In this paragraph “the first period of account” has the same meaning as in paragraph 12.

Certain cases where there is a transfer of a lease

- 14 (1) This paragraph applies if –
 - (a) before the whole of an amount has been treated by paragraph 13 as arising to the lessee, there is a transfer of a lease or part of a lease from the lessee to another person,
 - (b) the transferee is connected to the lessee,
 - (c) immediately after the transfer, the transferee carries on activities the profits of which are chargeable to income tax or corporation tax, and
 - (d) the transfer is not one where it is reasonable to suppose that the transfer is, or arrangements of which the transfer is part are, designed to avoid tax.
- (2) The amount is to continue to be dealt with in accordance with paragraph 12 but is to be treated as arising to the transferee over so much of the spreading period as falls on or after the date on which the transfer takes place.
- (3) If, following the transfer, it is necessary to apportion between more than one person an amount treated by paragraph 12 or this paragraph as arising, the apportionment is to be made on a just and reasonable basis.

- (4) In this paragraph –
“connected” is to be read in accordance with sections 993 and 994 of ITA 2007 and sections 1122 and 1123 of CTA 2010, and
“the spreading period” has the same meaning as in paragraph 12.

Cases where lessee permanently ceases to carry on activities

- 15 (1) Sub-paragraph (2) applies if –
(a) before the whole of an amount has been treated by paragraph 12 as arising, the lessee permanently ceases to carry on activities the profits of which are chargeable to income tax or corporation tax, and
(b) the whole of the amount so far as not treated by paragraph 12 as arising is not treated by paragraph 14(2) as arising to a transferee.
- (2) The amount so far as not otherwise treated as arising –
(a) is to be treated as arising to the lessee, and
(b) is to be brought into account in calculating the profits of the lessee, immediately before the cessation.

Application of paragraphs 11 to 15 to lease portfolios

- 16 (1) This paragraph applies if a lessee, in accordance with generally accepted accounting practice, prepares accounts by reference to a portfolio of leases having similar characteristics rather than by reference to the individual leases.
- (2) Paragraphs 11 to 13 and 15 apply to the portfolio (subject to any necessary modifications) in the same way as they apply to a lease.
- (3) If there is a transfer of the portfolio (or an individual lease within the portfolio), paragraph 14 applies to the transfer (subject to any necessary modifications) in the same way as it applies to the transfer of a lease.

Corporate interest restriction: changes of accounting policy

- 17 (1) In section 426 of TIOPA 2010 (changes of accounting policy), in subsection (3), after paragraph (e) insert –
“(f) paragraphs 11 to 16 of Schedule 8 to FA 2019 (transitional provision following the repeal of section 53 of FA 2011) so far as they have effect in relation to adjustments under Chapter 14 of Part 3 of CTA 2009 (trading profits).”
- (2) The amendment made by this paragraph has effect in relation to periods of account of a worldwide group (within the meaning given by section 480 TIOPA 2010) beginning on or after 1 January 2019.

Corporate interest restriction: treatment of certain adjustments

- 18 (1) Sub-paragraph (2) applies if –
(a) an amount is brought into account for corporation tax purposes for a period of account beginning on or after 1 January 2019 as a receipt or expense treated by any of the change of accounting policy provisions as arising to a company which is a lessee,

- (b) the receipt or expense is treated as arising to the company in consequence of a change of accounting policy relating to a lease in respect of which the company is the lessee,
 - (c) under the old accounting policy, the lease fell to be treated as a finance lease in the accounts of the company, and
 - (d) under the new accounting policy, the lease would fall to be treated as a right-of-use lease in those accounts but for –
 - (i) the short term of the lease, or
 - (ii) the low value of the leased asset.
- (2) For the purposes of Part 10 of TIOPA 2010 (corporate interest restriction) –
- (a) if the amount is brought into account as an expense, “tax-interest expense amount” (see section 382 of that Act) does not include that amount;
 - (b) if the amount is brought into account as a receipt, “tax-interest income amount” (see section 385 of that Act) does not include that amount.
- (3) This paragraph has effect in relation to adjustments to which the financial statements of a worldwide group are treated by section 426 of TIOPA 2010 (changes in accounting policy) as subject in the same way as it has effect in relation to adjustments made under the change of accounting policy provisions by a company and accordingly –
- (a) if the amount is brought into account as an expense, “relevant expense amount” (see section 411(1) of that Act) does not include that amount;
 - (b) if the amount is brought into account as a receipt, “relevant income amount” (see section 411(2) of that Act) does not include that amount.
- (4) In this paragraph –
- “the change of accounting policy provisions” means Chapter 14 of Part 3 and sections 261 and 262 of CTA 2009 (adjustment on change of basis), and
 - “right-of-use lease” has the meaning given by section 494 of TIOPA 2010 (other interpretation).

SCHEDULE 9

Section 17

VAT TREATMENT OF VOUCHERS

- 1 VATA 1994 is amended as follows.
- 2 In section 51B –
- (a) in the heading, at the end insert “issued before 1 January 2019”;
 - (b) the existing text becomes subsection (1);
 - (c) after that subsection insert –
 - “(2) Schedule 10A does not have effect with respect to a face value voucher (within the meaning of that Schedule) issued on or after 1 January 2019.”

3 After section 51B insert –

“51C Vouchers issued on or after 1 January 2019

- (1) Schedule 10B makes provision about the VAT treatment of vouchers.
- (2) Schedule 10B has effect with respect to a voucher (within the meaning of that Schedule) issued on or after 1 January 2019.”

51D Postage stamps issued on or after 1 January 2019

- (1) The issue of a postage stamp, and any subsequent transfer of it, is a supply of services for the purposes of this Act.
- (2) The consideration for the issue or subsequent transfer of a postage stamp is to be disregarded for the purposes of this Act, except to the extent (if any) that it exceeds the face value of the stamp.
- (3) The “face value” of the stamp is the amount stated on or recorded in the stamp or the terms and conditions governing its use.
- (4) This section has effect with respect to postage stamps issued on or after 1 January 2019.”

4 In the heading to Schedule 10A, at the end insert “issued before 1 January 2019”.

5 After Schedule 10A insert –

“SCHEDULE 10B

Section 51C

VAT TREATMENT OF VOUCHERS ISSUED ON OR AFTER 1 JANUARY 2019

Meaning of “voucher”

- 1 (1) In this Schedule “voucher” means an instrument (in physical or electronic form) in relation to which the following conditions are met.
 - (2) The first condition is that one or more persons are under an obligation to accept the instrument as consideration for the provision of goods or services.
 - (3) The second condition is that either or both of –
 - (a) the goods and services for the provision of which the instrument may be accepted as consideration, and
 - (b) the persons who are under the obligation to accept the instrument as consideration for the provision of goods or services,are limited and are stated on or recorded in the instrument or the terms and conditions governing the use of the instrument.
 - (4) The third condition is that the instrument is transferable by gift (whether or not it is transferable for consideration).
 - (5) The following are not vouchers –
 - (a) an instrument entitling a person to a reduction in the consideration for the provision of goods or services;

- (b) an instrument functioning as a ticket, for example for travel or for admission to a venue or event;
- (c) postage stamps.

Meaning of related expressions

- 2 (1) This paragraph gives the meaning of other expressions used in this Schedule.
- (2) “Relevant goods or services”, in relation to a voucher, are any goods or services for the provision of which the voucher may be accepted as consideration.
- (3) References in this Schedule to the transfer of a voucher do not include the voucher being offered and accepted as consideration for the provision of relevant goods or services.
- (4) References in this Schedule to a voucher being offered or accepted as consideration for the provision of relevant goods or services include references to the voucher being offered or accepted as part consideration for the provision of relevant goods or services.

VAT treatment of vouchers: general rule

- 3 (1) The issue, and any subsequent transfer, of a voucher is to be treated for the purposes of this Act as a supply of relevant goods or services.
- (2) References in this Schedule to the “paragraph 3 supply”, in relation to the issue or transfer of a voucher, are to the supply of relevant goods or services treated by this paragraph as having been made on the issue or transfer of the voucher.

Single purpose vouchers: special rules

- 4 (1) A voucher is a single purpose voucher if, at the time it is issued, the following are known—
- (a) the place of supply of the relevant goods or services, and
 - (b) that any supply of relevant goods or services falls into a single supply category (and what that supply category is).
- (2) The supply categories are—
- (a) supplies chargeable at the rate in force under section 2(1) (standard rate),
 - (b) supplies chargeable at the rate in force under section 29A (reduced rate),
 - (c) zero-rated supplies, and
 - (d) exempt supplies and other supplies that are not taxable supplies.
- (3) For the purposes of this paragraph, assume that the supply of relevant goods or services is the provision of relevant goods or services for which the voucher may be accepted as consideration (rather than the supply of relevant goods or services treated as made on the issue or transfer of the voucher).

- 5 (1) This paragraph applies where a single purpose voucher is accepted as consideration for the provision of relevant goods or services.
- (2) The provision of the relevant goods or services is not a supply of goods or services for the purposes of this Act.
- (3) But where the person who provides the relevant goods or services (the “provider”) is not the person who issued the voucher (the “issuer”), for the purposes of this Act the provider is to be treated as having made a supply of those goods or services to the issuer.

Multi-purpose vouchers: special rules

- 6 A voucher is a multi-purpose voucher if it is not a single purpose voucher.
- 7 (1) Any consideration for the issue or subsequent transfer of a multi-purpose voucher is to be disregarded for the purposes of this Act.
- (2) The paragraph 3 supply made on the issue or subsequent transfer of a multi-purpose voucher is to be treated as not being a supply within section 26(2).
- 8 (1) Where a multi-purpose voucher is accepted as consideration for the provision of relevant goods or services, for the purposes of this Act—
 - (a) the provision of the relevant goods or services is to be treated as a supply, and
 - (b) the value of the supply treated as having been made by paragraph (a) is determined as follows.
- (2) If the consideration for the most recent transfer of the voucher for consideration is known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to that consideration.
- (3) If the consideration for the most recent transfer of the voucher for consideration is not known to the supplier, the value of the supply is such amount as, with the addition of the VAT chargeable on the supply, is equal to the face value of the voucher.
- (4) The “face value” of a voucher is the monetary value stated on or recorded in—
 - (a) the voucher, or
 - (b) the terms and conditions governing the use of the voucher.

Intermediaries

- 9 (1) This paragraph applies where—
 - (a) a voucher is issued or transferred by an agent who acts in their own name, and
 - (b) the paragraph 3 supply is a supply of services to which section 47(3) would apply (apart from this paragraph).
- (2) Section 47(3) does not apply.

- (3) The paragraph 3 supply is treated as both a supply to the agent and a supply by the agent.
- 10 Nothing in this Schedule affects the application of this Act to any services provided, by a person who issues or transfers a voucher, in addition to the issue or transfer of the voucher.

Composite transactions

- 11 (1) This paragraph applies where, as part of a composite transaction –
- (a) goods or services are supplied to a person, and
 - (b) a voucher is issued or transferred to that person.
- (2) If the total consideration for the transaction is not different, or not significantly different, from what it would be if the voucher were not issued or transferred, the paragraph 3 supply is to be treated as being made for no consideration.”

SCHEDULE 10

Section 18

VAT GROUPS: ELIGIBILITY

PART 1

ELIGIBILITY OF INDIVIDUALS AND PARTNERSHIPS

- 1 (1) Section 43A of VATA 1994 (groups: eligibility) is amended as follows.
- (2) In subsection (1), in the opening words –
- (a) for “bodies corporate” substitute “UK bodies corporate”;
 - (b) omit “each is established or has a fixed establishment in the United Kingdom and”.
- (3) Omit subsections (2) and (3).
- (4) At the end insert –
- “(4) An individual and one or more UK bodies corporate are eligible to be treated as members of a group if the individual –
- (a) controls the UK body corporate or all of the UK bodies corporate,
 - (b) has a business establishment in the United Kingdom, and
 - (c) is liable or entitled to be registered under Schedule 1 (registration in respect of taxable supplies: UK establishments).
- (5) Two or more relevant persons carrying on a business in partnership (“the partnership”) and one or more UK bodies corporate are eligible to be treated as members of a group if the partnership –
- (a) controls the UK body corporate or all of the UK bodies corporate,
 - (b) has a business establishment in the United Kingdom, and
 - (c) is liable or entitled to be registered under Schedule 1.

- (6) In this section—
 - (a) “UK body corporate” means a body corporate which is established or has a fixed establishment in the United Kingdom;
 - (b) “relevant person” means an individual, a body corporate or a Scottish partnership.
- (7) Section 43AZA contains provision for determining for the purposes of this section whether a body corporate, individual or partnership controls a UK body corporate.”

2 In that Act, after section 43A insert—

“43AZA Section 43A: control test

- (1) This section applies for the purposes of section 43A (and expressions used in this section have the same meaning as in that section).
- (2) A body corporate (“X”) controls a UK body corporate if—
 - (a) X is empowered by statute to control the UK body corporate’s activities, or
 - (b) X is the UK body corporate’s holding company.
- (3) An individual (“Y”) controls a UK body corporate if Y would, were Y a company, be the UK body corporate’s holding company.
- (4) Two or more relevant persons carrying on a business in partnership (“the partnership”) control a UK body corporate if the partnership would, were it a company, be the UK body corporate’s holding company.
- (5) In this section “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006.”

PART 2

CONSEQUENTIAL AMENDMENTS

VATA 1994

- 3 VATA 1994 is amended as follows.
- 4 In section 18A (fiscal warehousing), in subsection (9), for “body corporate” substitute “person”.
- 5 (1) Section 43 (groups of companies) is amended in accordance with this paragraph.
 - (2) In subsection (1), for “bodies corporate” substitute “persons”.
 - (3) In subsection (1AA)—
 - (a) in paragraph (c)(ii), for “body which” substitute “person who”;
 - (b) in the closing words, for “body” substitute “person”.
- 6 (1) Section 43B (groups: applications) is amended in accordance with this paragraph.
 - (2) In subsection (1), for “bodies corporate” substitute “persons”.

-
- (3) In subsection (2) –
- (a) in the opening words, for “bodies corporate” substitute “persons”;
 - (b) in paragraphs (a) and (b), for “body corporate” substitute “person”;
 - (c) in paragraph (d), for “bodies corporate” substitute “persons”;
- (4) In subsection (3) –
- (a) in the opening words, for “bodies corporate” substitute “persons”;
 - (b) in paragraph (b), for “bodies” substitute “persons”;
- (5) In subsection (5) –
- (a) in paragraph (a), for “bodies corporate” substitute “persons”;
 - (b) in paragraph (b), for “body corporate” substitute “person”.
- 7 (1) Section 43C (groups: termination of membership) is amended in accordance with this paragraph.
- (2) In subsection (1), for “body corporate” substitute “person”.
- (3) In subsection (3)(a) and (b) and in the closing words, for “body” substitute “person”.
- (4) In subsection (4)(a) and (b), for “body” substitute “person”.
- 8 (1) Section 43D (groups: duplication) is amended in accordance with this paragraph.
- (2) In subsection (1), for “body corporate” substitute “person”.
- (3) In subsection (2), for “body which” substitute “person who”.
- (4) In subsection (3) –
- (a) in paragraph (b), for “bodies” substitute “persons”;
 - (b) in the closing words, for “body or bodies” substitute “person or persons”.
- (5) In subsection (4)(b), for “body” substitute “person”.
- (6) In subsection (5), for “body” substitute “person”.
- 9 In section 44 (supplies to groups), in subsection (1)(a) and (b), for “body corporate” substitute “person”.
- 10 In section 53 (tour operators), in subsection (2)(d), for “body corporate” substitute “person”.
- 11 In section 97 (orders, rules and regulations), in subsection (4)(ca), for “bodies” substitute “persons”.
- 12 (1) Schedule 9 (exemptions) is amended in accordance with this paragraph.
- (2) In Group 14, in Note (13) –
- (a) in the opening words, for “body corporate” substitute “person”;
 - (b) in paragraph (a) for “body” substitute “person”;
 - (c) in paragraph (b) –
 - (i) for “body corporate, or of any other body corporate”, substitute “person, or any other person”;
 - (ii) for “body, at a time when that body” substitute “person, at a time when that person”.

- (d) in paragraph (c), for “body corporate” substitute “person”.
- (3) In that Group, in Note (14), for “body corporate’s” substitute “person’s”.
- 13 (1) Schedule 9A (anti-avoidance provisions: groups) is amended in accordance with this paragraph.
 - (2) In paragraph 1(2), for “body corporate” substitute “person”.
 - (3) In paragraph 2—
 - (a) in sub-paragraph (1)(a), for “body corporate” substitute “person”;
 - (b) in sub-paragraph (2), for “body corporate’s” substitute “person’s”.
 - (4) In paragraph 3—
 - (a) in sub-paragraph (1)(a) and (b), for “body corporate” substitute “person”;
 - (b) in sub-paragraph (3), for “body corporate” (in both places) substitute “person”;
 - (c) in sub-paragraph (5), for “body corporate which” substitute “person who”.
 - (5) In paragraph 5—
 - (a) in sub-paragraph (1)(b)—
 - (i) for “body corporate which” substitute “person who”;
 - (ii) for “that person” substitute “the person mentioned in paragraph (a)”;
 - (b) in sub-paragraph (2)—
 - (i) for “body corporate (“the relevant body”)” substitute “person (“the relevant person”)”;
 - (ii) for “that body or to any body corporate which” substitute “that person or to any person who”;
 - (iii) for “the relevant body” substitute “the relevant person”.
 - (6) In paragraph 6—
 - (a) in sub-paragraph (7)(b), for “body corporate that” substitute “person who”;
 - (b) in sub-paragraph (11)(b)—
 - (i) for “body corporate which” substitute “person who”;
 - (ii) for “that person” substitute “the person mentioned in paragraph (a)”;
 - (c) in sub-paragraph (11)(c), for “body corporate which” substitute “person who”.
- 14 (1) Schedule 10 (buildings and land) is amended in accordance with this paragraph.
 - (2) In paragraph 3—
 - (a) in sub-paragraph (1), for “body corporate” substitute “person”;
 - (b) in sub-paragraph (2)—
 - (i) in the opening words (in both places) and paragraph (c), for “body corporate” substitute “person”;
 - (ii) in paragraph (c), for “that body” substitute “that person”;
 - (c) in sub-paragraph (3), for “body corporate” substitute “person (P)”;
 - (d) in sub-paragraph (4)—

-
- (i) in the opening words, for “The body corporate” substitute “P”;
 - (ii) in paragraphs (a), (aa), (b) and (c), for “the body corporate” substitute “P”;
 - (e) in sub-paragraph (5)–
 - (i) in the opening words, for “The body corporate” substitute “P” and for “the body corporate” substitute “P”;
 - (ii) in the closing words, for “the body corporate” substitute “P”.
- (3) In paragraph 4–
- (a) in sub-paragraph (1), for “body corporate which” substitute “person (P) who”;
 - (b) in sub-paragraph (2), for “the body corporate, it” substitute “P, P”;
 - (c) in sub-paragraph (3)(b), for “the body corporate” substitute “P”;
 - (d) in sub-paragraph (3)(c)–
 - (i) for “the body corporate” substitute “P”;
 - (ii) for “it” substitute “P”;
 - (e) in sub-paragraph (4)(b)–
 - (i) for “the body corporate” substitute “P”;
 - (ii) for “it” substitute “P”;
 - (f) in sub-paragraph (5), in the opening words–
 - (i) for “the body corporate” substitute “P”;
 - (ii) for “it” substitute “P”;
 - (g) in sub-paragraph (6)(a)–
 - (i) for “the body corporate” substitute “P”;
 - (ii) for “it’s” substitute “P’s”;
 - (h) in sub-paragraph (6)(b), for “the body corporate” substitute “P”;
 - (i) in sub-paragraph (7), for “the body corporate” substitute “P”.
- (4) In paragraph 21 –
- (a) in sub-paragraph (1)(b)–
 - (i) for “body corporate” substitute “person”;
 - (ii) for “the body” substitute “the person”;
 - (b) in sub-paragraph (3)(a), for “body corporate which” substitute “person who”;
 - (c) in sub-paragraph (9)(b), for “body corporate which” substitute “person who”;
 - (d) in sub-paragraph (11)(b), for “body corporate which” substitute “person who”;
 - (e) in sub-paragraph (12), in the definition of “relevant group member”–
 - (i) after “any person” insert “(P)”;
 - (ii) for “body corporate which” substitute “person who”;
 - (iii) for “that person” substitute “P”.
- (5) In paragraph 35(3), for “body corporate” substitute “person”.

SCHEDULE 11

Section 30

PENALTIES FOR FAILURE TO MAKE RETURNS ETC

PART 1

INTRODUCTION

Introduction

- 1 (1) This Schedule provides for a person who fails to make or deliver a return to be liable to penalty points and penalties.
- (2) Part 1 of this Schedule –
 - (a) identifies groups of returns, and the returns falling within each group, and
 - (b) makes provision about the interpretation of this Schedule.
- (3) Part 2 of this Schedule provides for a person to be liable to penalty points, and penalties, in respect of each group of returns.
- (4) Part 3 of this Schedule makes supplementary provision.

Returns

- 2 (1) Tables 1, 2 and 3 list groups of returns (according to the frequency with which they are required to be made), and the returns in each group.

Table 1: annual etc returns

<i>Group of returns</i>	<i>Relevant tax</i>	<i>Returns in group</i>
1	Aggregates levy	Return under the Aggregates Levy (General) Regulations 2002 (S.I. 2002/761) for a period which – <ol style="list-style-type: none"> (a) is more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question
2	Air passenger duty	Return under the Air Passenger Duty Regulations 1994 (S.I. 1994/1738), in the case of a person authorised to pay and account for duty in accordance with the annual accounting scheme
3	Annual tax on enveloped dwellings	<ol style="list-style-type: none"> (1) Annual tax on enveloped dwellings return under section 159 of FA 2013 (2) Return of adjusted chargeable amount under section 160 of FA 2013
4	Climate change levy	Return under the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) for an accounting period which – <ol style="list-style-type: none"> (a) is more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question

Table 1: annual etc returns

<i>Group of returns</i>	<i>Relevant tax</i>	<i>Returns in group</i>
5	Excise duties	Return under regulation 9 of the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002 (S.I. 2002/3057) for a period of 12 months
6	Income tax	Statement under regulations under paragraph 8 of Schedule A1 to TMA 1970, in a case where there is no requirement to provide information under regulations under paragraph 7 of that Schedule in relation to the business
7	Income tax or capital gains tax	(1) Return under section 8 of TMA 1970 (2) Accounts, statement or document required under section 8(1)(b) of TMA 1970 or (when paragraph 3 of Schedule 14 to F(No 2)A 2017 comes into force) section 8(1AB)(b) of TMA 1970
8	Income tax or capital gains tax	(1) Return under section 8A of TMA 1970 (2) Accounts, statement or document required under section 8A(1)(b) of TMA 1970 or (when paragraph 4 of Schedule 14 to F(No 2)A 2017 comes into force) section 8A(1AB)(b) of TMA 1970
9	Income tax or corporation tax	(1) Return under section 12AA(2)(a) or (3)(a) of TMA 1970 (2) Accounts, statement or document required under section 12AA(2)(b) or (3)(b) of TMA 1970
10	Income tax or corporation tax	Return under regulations under paragraph 10 of Schedule A1 to TMA 1970, in a case where there is no requirement to provide information under regulations under paragraph 7 of that Schedule in relation to the business
11	Insurance premium tax	Return under the Insurance Premium Tax Regulations 1994 (S.I. 1994/1774) for a period which – (a) is more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question
12	Landfill tax	Return under the Landfill Tax Regulations 1996 (S.I. 1996/1527) for a period which – (a) is more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question
13	Value added tax	(1) Return under regulation 50 of the Value Added Tax Regulations 1995 (S.I. 1995/2518) for a current accounting year (2) Return under regulation 25(1)(c) of those regulations for a period which is more than 3 months, and is the period for which returns are (or are to be) usually made by the person in question

Table 2: quarterly etc returns

<i>Group of returns</i>	<i>Relevant tax</i>	<i>Returns in group</i>
1	Aggregates levy	Return under the Aggregates Levy (General) Regulations 2002 (S.I. 2002/761) for a period which – (a) is more than one month but not more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question
2	Alcoholic liquor duties	Return under regulations under section 13 of ALDA 1979 (spirits)
3	Biofuels duty	Return under regulation 19 of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 (S.I. 2004/2065)
4	Climate change levy	Return under the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) for an accounting period which – (a) is more than one month but not more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question
5	Gaming duty	Return under directions under paragraph 10 of Schedule 1 to FA 1997
6	General betting duty	Return under regulations under section 166 of FA 2014, other than a return for a period treated as an accounting period by virtue of transitional arrangements under section 165(4) of that Act
7	Income tax	In a case where a person other than a partnership is required to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970 – (a) information required to be provided under regulations under that paragraph, and (b) a statement under regulations under paragraph 8 of that Schedule
8	Income tax or corporation tax	In a case where a partnership is required to provide information under regulations under paragraph 7 of Schedule A1 to TMA 1970 – (a) information required to be provided under regulations under that paragraph, and (b) a return under regulations under paragraph 10 of that Schedule
9	Insurance premium tax	Return under the Insurance Premium Tax Regulations 1994 (S.I. 1994/1774) for a period which – (a) is more than one month but not more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question

Table 2: quarterly etc returns

<i>Group of returns</i>	<i>Relevant tax</i>	<i>Returns in group</i>
10	Landfill tax	Return under the Landfill Tax Regulations 1996 (S.I. 1996/1527) for a period which— (a) is more than one month but not more than 3 months, and (b) is the period for which returns are (or are to be) usually made by the person in question
11	Machine games duty	Return under regulations under paragraph 18 of Schedule 24 to FA 2012, other than a return for a period treated as an accounting period by virtue of transitional arrangements under paragraph 14(5) of that Schedule
12	Pool betting duty	Return under regulations under section 166 of FA 2014, other than a return for a period treated as an accounting period by virtue of transitional arrangements under section 165(4) of that Act
13	Remote gaming duty	Return under regulations under section 166 of FA 2014, other than a return for a period treated as an accounting period by virtue of transitional arrangements under section 165(4) of that Act
14	Soft drinks industry levy	Return under regulation 21 of the Soft Drinks Industry Levy Regulations 2018 (S.I. 2018/41)
15	Value added tax	(1) Return under regulation 25(1) of the Value Added Tax Regulations 1995 (S.I. 1995/2518), other than a return under regulation 25(1)(a), (b) or (c) (2) Return under regulation 25(1)(c) of those regulations for a period which is more than 5 weeks but not more than 3 months, and is the period for which returns are (or are to be) usually made by the person in question

Table 3: monthly etc returns

<i>Group of returns</i>	<i>Relevant tax</i>	<i>Returns in group</i>
1	Aggregates levy	Return under the Aggregates Levy (General) Regulations 2002 (S.I. 2002/761) for a period which— (a) is not more than 1 month, and (b) is the period for which returns are (or are to be) usually made by the person in question
2	Air passenger duty	Return under the Air Passenger Duty Regulations 1994 (S.I. 1994/1738), in the case of a person who is not authorised to pay and account for duty in accordance with the annual accounting scheme and is not an occasional operator

Table 3: monthly etc returns

<i>Group of returns</i>	<i>Relevant tax</i>	<i>Returns in group</i>
3	Alcoholic liquor duties	Return under regulations under section 49 of ALDA 1979 (beer)
4	Alcoholic liquor duties	Return under regulations under section 56 or 62 of ALDA 1979 (cider and perry; wine and made-wine)
5	Bingo duty	Return under regulations under paragraph 9 of Schedule 3 to BGDA 1981
6	Biofuels duty	Return under regulation 19A of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 (S.I. 2004/2065)
7	Climate change levy	Return under the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) for an accounting period which – (a) is not more than 1 month, and (b) is the period for which returns are (or are to be) usually made by the person in question
8	Deductions on account of tax under Chapter 3 of Part 3 of FA 2004 (construction industry scheme)	Return under regulations under section 70 of FA 2004
9	Excise duties	Return under regulation 9 of the Hydrocarbon Oil (Registered Dealers in Controlled Oil) Regulations 2002 (S.I. 2002/3057) for a period of one month
10	Insurance premium tax	Return under the Insurance Premium Tax Regulations 1994 (S.I. 1994/1774) for a period which – (a) is not more than one month, and (b) is the period for which returns are (or are to be) usually made by the person in question
11	Landfill tax	Return under the Landfill Tax Regulations 1996 (S.I. 1996/1527) for a period which – (a) is not more than 1 month, and (b) is the period for which returns are (or are to be) usually made by the person in question
12	Lottery duty	Return under regulations under section 28(2) of FA 1993
13	Value added tax	(1) Return under regulation 25(1)(a) of the Value Added Tax Regulations 1995 (S.I. 1995/2518) (2) Return under regulation 25(1)(c) of those regulations for a period which is not more than 5 weeks, and is the period for which returns are (or are to be) usually made, or a period for which returns are (or are to be) regularly made, by the person in question

- (2) Where an entry in column 3 of Table 1, 2 or 3 which refers to legislation uses terms used in the legislation, the terms have the same meaning in the entry as in the legislation.

Interpretation

- 3 (1) This paragraph applies for the interpretation of this Schedule.
- (2) References to the Tables, or a particular Table, are to the Tables or that Table in paragraph 2 (unless otherwise specified).
- (3) References to “return” include any return, information, statement, account or other document specified in column 3 of Table 1, 2 or 3.
- (4) References to a group of returns are to a group of returns listed in one of the Tables, and references to returns in or belonging to a group of returns are to be read accordingly.
- (5) Any reference to making a return includes a reference to delivering or submitting a return.
- (6) “Filing date”, in relation to a return, means the date by which it is required to be made to HMRC.
- (7) A failure to file a return on or before the filing date is treated as occurring on the filing date.
- (8) Where a person is required to file an end of period statement for a tax year under regulations under paragraph 8 of Schedule A1 to TMA 1970, for the purposes of this Schedule the statement is to be treated as filed on or before its filing date only if—
- (a) it is actually filed on or before its filing date, and
 - (b) the person’s return for that tax year under section 8 or 8A of TMA 1970 is made on or before the filing date for that return.
- (9) References to months are to—
- (a) tax months, in relation to returns in group 8 in Table 3 (construction industry scheme), and
 - (b) calendar months, in relation to returns in any other group.
- (10) “HMRC” means Her Majesty’s Revenue and Customs.

Application of Schedule to persons with multiple businesses

- 4 (1) This paragraph applies for the interpretation of this Schedule where a person—
- (a) carries on more than one business, and
 - (b) in relation to two or more of those businesses (the “relevant businesses”), makes returns belonging to the same group of returns.
- (2) If the person makes separate returns for each of the relevant businesses, treat the person as having a separate group of returns of that description (and so a separate liability for points and penalties) for each of the relevant businesses.
- (3) If the person makes a single return for all of the relevant businesses, treat the person as having a single group of returns of that description (and so a single liability for points and penalties) for all of the relevant businesses.

- (4) If sub-paragraph (2) or (3) does not apply, treat the person as having a separate group of returns of that description (and so a separate liability for points and penalties) –
 - (a) for each relevant business for which the person makes a separate return (if any), and
 - (b) for each set of relevant businesses for which the person makes a single return.
- (5) A “set of relevant businesses” means two or more relevant businesses for which the person makes a single return.

PART 2

LIABILITY TO A PENALTY

Liability to penalty points

- 5 (1) If a person fails to file a return on or before the filing date, the person is liable to one penalty point for the group of returns to which the return belongs (but see sub-paragraphs (2) and (3)).
- (2) A person is not liable to more than one penalty point per month for a group of returns, even if in that month there is more than one failure to file a return in that group on or before the filing date.
- (3) A person is not liable to a penalty point for a group of returns if the person already has the maximum number of penalty points for that group of returns.
- (4) The maximum number of penalty points for a group of returns is –
 - (a) if the group is in Table 1, 2 points,
 - (b) if the group is in Table 2, 4 points, and
 - (c) if the group is in Table 3, 5 points.
- (5) See paragraphs 20 to 23 for further rules about liability to a penalty point.

Award of penalty points

- 6 (1) Where a person is liable to a penalty point for a group of returns, HMRC may award the person a penalty point for that group.
- (2) Where HMRC award a penalty point they must notify the person, and state in the notice –
 - (a) the failure (or failures) in respect of which the penalty point is awarded, and
 - (b) the group of returns for which the penalty point is awarded.
- (3) HMRC may not award a penalty point after the end of the appropriate number of months beginning with the first day of the month after the month in which the failure, in respect of which the person became liable for the penalty point, occurred.
- (4) The appropriate number of months is –
 - (a) if the group is in Table 1, 12 months,
 - (b) if the group is in Table 2, 3 months, and
 - (c) if the group is in Table 3, 1 month.

Expiry of individual penalty points

- 7 (1) A penalty point for a group of returns expires at the end of the relevant period, unless immediately before the end of that period the person has the maximum number of penalty points for that group of returns.
- (2) The relevant period is the period of 24 months beginning with the first day of the month after the month in which the failure, in respect of which the point was awarded, occurred.

Expiry of all penalty points for a group of returns

- 8 (1) Each of a person's penalty points for a group of returns expires at the beginning of the first day on which both condition A and condition B are met.
- (2) Condition A is that the person has delivered each return in the group on or before its filing date for the relevant length of time (or longer).
- (3) The relevant length of time is x months beginning with the first day of the month after the month in which the most recent failure to file a return in the group on or before its filing date occurred.
- (4) In sub-paragraph (3) "x months" means –
- (a) if the group of returns is in Table 1, 24 months,
 - (b) if the group of returns is in Table 2, 12 months, and
 - (c) if the group of returns is in Table 3, 6 months.
- (5) Condition B is met on any day if the person has made all the returns in the group whose filing date fell in the period of 24 calendar months ending with the previous day (whether or not those returns were made on or before their filing date).
- (6) Where each of a person's penalty points for a group of returns expires under this paragraph, HMRC must notify the person.

Penalty points: effect of moving between groups of returns

- 9 (1) Paragraphs 10 to 14 apply where a person required to file returns in any of the groups of returns listed in the table below –
- (a) ceases to be required to file returns in that group (the "old" group of returns), and
 - (b) instead becomes required to file returns in another group of returns (the "new" group of returns) in the same class as the old group of returns.
- (2) But where the returns in the old group of returns relate to a business or businesses carried on by the person, paragraphs 10 to 14 apply only if the returns in the new group of returns also relate to that business or all of those businesses.
- (3) The table below lists classes of groups of returns, and the groups of returns in each class.

<i>Class</i>	<i>Relevant tax</i>	<i>Groups of returns in class</i>
1	Aggregates levy	(1) Table 1, group 1 (2) Table 2, group 1 (3) Table 3, group 1
2	Air passenger duty	(1) Table 1, group 2 (2) Table 3, group 2
3	Biofuels duty	(1) Table 2, group 3 (2) Table 3, group 6
4	Climate change levy	(1) Table 1, group 4 (2) Table 2, group 4 (3) Table 3, group 7
5	Excise duties	(1) Table 1, group 5 (2) Table 3, group 9
6	Income tax	(1) Table 1, group 6 (2) Table 2, group 7
7	Income tax or corporation tax	(1) Table 1, group 9 (2) Table 1, group 10 (3) Table 2, group 8
8	Insurance premium tax	(1) Table 1, group 11 (2) Table 2, group 9 (3) Table 3, group 10
9	Landfill tax	(1) Table 1, group 12 (2) Table 2, group 10 (3) Table 3, group 11
10	Value added tax	(1) Table 1, group 13 (2) Table 2, group 15 (3) Table 3, group 13

- 10 (1) This paragraph applies to determine the penalty points the person has for the new group of returns, on becoming required to file returns for the new group of returns.
- (2) If the person has no penalty points for the old group of returns, the person has no penalty points for the new group of returns.
- (3) If the person has penalty points for the old group of returns, the number of penalty points the person has for the new group of returns is determined by taking the number of penalty points the person has for the old group of returns and adjusting it in accordance with the table below.
- (4) If the adjustment gives a number of less than zero, treat the adjusted number of penalty points as zero.

<i>Old group of returns</i>	<i>New group of returns</i>	<i>Adjustment</i>
Any group in Table 1	Any group in Table 1	No adjustment
	Any group in Table 2	Add 2 penalty points

<i>Old group of returns</i>	<i>New group of returns</i>	<i>Adjustment</i>
Any group in Table 2	Any group in Table 3	Add 3 penalty points
	Any group in Table 1	Deduct 2 penalty points
Any group in Table 3	Any group in Table 3	Add 1 penalty point
	Any group in Table 1	Deduct 3 penalty points
	Any group in Table 2	Deduct 1 penalty point

- 11 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is the same as the actual number of penalty points for the old group of returns (and is not zero).
- (2) Treat the penalty points for the old group of returns as penalty points for the new group of returns.
- 12 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is greater than zero, but less than the actual number of penalty points for the old group of returns.
- (2) Treat the person as having, for the new group of returns, the penalty points which were awarded in respect of the x most recent relevant failures.
- (3) For this purpose “x” is the adjusted number of penalty points for the new group of returns.
- (4) Treat the penalty points in respect of the other relevant failures as having expired (so that the person has no penalty points for the old group of returns).
- (5) In this paragraph “relevant failure” means a failure to file a return in the old group of returns on or before its filing date, in respect of which a penalty point was awarded.
- 13 (1) This paragraph applies if the adjusted number of penalty points for the new group of returns is greater than the actual number of penalty points for the old group of returns.
- (2) Treat all the penalty points for the old group of returns as penalty points for the new group of returns.
- (3) Treat the additional penalty points as having been awarded in respect of relevant failures occurring on the same day as the most recent relevant failure.
- (4) For this purpose the additional penalty points are the penalty points added by way of adjustment to the actual number of penalty points for the old group of returns.
- (5) In this paragraph “relevant failure” means a failure to file a return in the old group of returns on or before its filing date, in respect of which a penalty point was awarded.
- 14 (1) Paragraph 8 applies in relation to the new group of returns with the following modifications.

- (2) Sub-paragraph (3) applies as if for the words from “month in which” to the end there were substituted “first month for all or part of which a return in the new group of returns is required to be made”.
- (3) The reference in sub-paragraph (5) to returns in the group includes returns in the old group of returns.

Penalty points: effect of moving between groups of returns for some businesses only

- 15 (1) This paragraph applies where –
 - (a) a person is required to file returns in any of the groups of returns listed in the table in paragraph 9 and those returns deal with two or more businesses in the same return, and
 - (b) in relation to some but not all of those businesses, the person –
 - (i) ceases to be required to file returns in that group (the “old” group of returns), and
 - (ii) instead becomes required to file returns in another group of returns (the “new” group of returns) in the same class as the old group of returns.
- (2) If the person has penalty points for the old group of returns, treat those points as having expired (so that the person has no penalty points for the old group of returns or the new group of returns).

Liability to penalties

- 16 (1) If a person fails to file a return on or before its filing date and condition A or condition B is met, the person is liable to a penalty.
- (2) Condition A is that –
 - (a) the person is awarded a penalty point in respect of the failure, and
 - (b) on being awarded that penalty point, or on being awarded after that failure a penalty point in respect of an earlier failure, the person has the maximum number of penalty points for the group of returns to which the return belongs.
- (3) Condition B is that the failure occurs on a day on which the person has the maximum number of penalty points for the group of returns to which the return belongs.
- (4) The amount of a penalty under this paragraph is £[x].
- (5) See paragraphs 20 to 23 for further rules about liability to a penalty.

Assessments

- 17 (1) Where a person is liable for a penalty under this Schedule HMRC may assess the penalty.
- (2) Where HMRC assess a penalty they must –
 - (a) notify the person, and
 - (b) state in the notice the failure (or failures) for which the person is liable to a penalty.

- (3) Notice of an assessment of a penalty may not be issued before (but may be issued at the same time as) notice under paragraph 6 of the award of the penalty point as a result of which the person is liable to a penalty.
- (4) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.
- (5) An assessment of a penalty under this Schedule—
 - (a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for in this Schedule),
 - (b) may be enforced as if it were an assessment to tax, and
 - (c) may be combined with an assessment to tax.

Time limit for assessments

- 18 An assessment of a penalty under this Schedule may not be made after the end of the period of 2 years beginning with the first day of the month after the month in which the failure, in respect of which the person became liable for the penalty, occurred.

Power to amend figures by regulations

- 19 The Commissioners for HMRC may by regulations—
- (a) amend paragraph 5(4) so as to increase or reduce the maximum number of penalty points for a group of returns;
 - (b) amend paragraph 8(4) so as to increase or reduce the number of months;
 - (c) amend paragraph 8(5) so as to increase or reduce the number of months;
 - (d) amend paragraph 16(4) so as to increase or reduce the amount of the penalty.

PART 3

SUPPLEMENTARY PROVISION

Familiarisation period

- 20 (1) The Commissioners for HMRC may by regulations make provision for persons specified in the regulations to be entitled to a familiarisation period for a group of returns specified in the regulations.
- (2) The regulations may make different provision for different purposes.
- (3) If a person is entitled to a familiarisation period for a group of returns, the person is not liable to a penalty point or a penalty under this Schedule in respect of any failure to file a return in that group which occurs during the familiarisation period.

Reasonable excuse

- 21 (1) Liability to a penalty point or a penalty under this Schedule does not arise in respect of a failure to make a return if the person satisfies HMRC (or on appeal, the tribunal) that there is a reasonable excuse for the failure.
- (2) For this purpose –
- (a) an insufficiency of funds is not a reasonable excuse, unless the person satisfies HMRC (or on appeal, the tribunal) that it was attributable to events outside the person’s control,
 - (b) where the person relies on another to do anything, that is not a reasonable excuse unless the person satisfies HMRC (or on appeal, the tribunal) that the person took reasonable care to avoid the failure, and
 - (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse only if the person satisfies HMRC (or on appeal, the tribunal) that the failure was remedied without unreasonable delay after the excuse ceased.
- (3) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 25(1)).

Double jeopardy

- 22 A person is not liable to a penalty point or a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

Withdrawal of notice to file a return

- 23 (1) This paragraph applies where –
- (a) a person is liable for a penalty point or a penalty under this Schedule in relation to a failure to make a return within group 7 or 8 in Table 1, and
 - (b) HMRC decide (on the request of the person or otherwise) to give the person a notice under section 8B of TMA 1970 withdrawing a notice under section 8 or 8A of that Act.
- (2) This paragraph also applies where –
- (a) a person is liable for a penalty point or a penalty under this Schedule in relation to a failure to make a return falling within group 9 in Table 1, and
 - (b) HMRC decide (on a request under section 12AAA of TMA 1970) to give a notice under that section withdrawing a notice under section 12AA of that Act.
- (3) The notice under section 8B or 12AAA of TMA 1970 may include provision cancelling liability to the penalty point or the penalty from the date specified in the notice.

Appeals

- 24 A person may appeal against a decision of HMRC that the person is liable under this Schedule to –

- (a) a penalty point, or
 - (b) a penalty.
- 25 (1) An appeal under paragraph 24 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC’s review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
- (2) Sub-paragraph (1) does not apply –
- (a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or
 - (b) in respect of any other matter expressly provided for by this Schedule.
- 26 (1) On an appeal under paragraph 24 that is notified to the tribunal, the tribunal may affirm or cancel HMRC’s decision –
- (a) that the person is liable to a penalty point, or
 - (b) that a penalty is payable by the person.
- (2) If the appeal relates to a penalty, the tribunal may also affirm or cancel HMRC’s decision that the person was liable to any of the penalty points by virtue of which the person was liable to the penalty.
- (3) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 25(1)).

Regulations: supplementary provision

- 27 (1) Regulations under this Schedule are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under paragraph 19 (power to amend figures in Part 2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (3) A statutory instrument containing regulations under paragraph 20 (familiarisation periods) is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Regulations under this Schedule may include transitional, transitory and saving provision.

SCHEDULE 12

Section 30

PENALTIES FOR DELIBERATELY WITHHOLDING INFORMATION

PART 1

INTRODUCTION

Introduction

- 1 This Schedule provides for penalties to be payable by a person who, by failing to make a return listed in the Table below on or before the filing date,

deliberately withholds information which would enable or assist HMRC to assess the person's liability to tax.

	<i>Tax to which return etc relates</i>	<i>Return or other document</i>
1	Aggregates levy	Return under regulations under section 25 of FA 2001
2	Air passenger duty	Return under regulations under section 38 of FA 1994
3	Alcoholic liquor duties	Return under regulations under section 13, 49, 56 or 62 of ALDA 1979
4	Annual tax on enveloped dwellings	Annual tax on enveloped dwellings return under section 159 of FA 2013
5	Annual tax on enveloped dwellings	Return of adjusted chargeable amount under section 160 of FA 2013
6	Bingo duty	Return under regulations under paragraph 9 of Schedule 3 to BGDA 1981
7	Capital gains tax	NRCGT return under section 12ZB of TMA 1970
8	Climate change levy	Return under regulations under paragraph 41 of Schedule 6 to FA 2000
9	Corporation tax	Company tax return under paragraph 3 of Schedule 18 to FA 1998
10	Deductions on account of tax under Chapter 3 of Part 3 of FA 2004 (construction industry scheme)	Return under regulations under section 70 of FA 2004
11	Excise duties	Return under regulations under section 60A of the Customs and Excise Management Act 1979
12	Excise duties	Return under regulations under section 93 of the Customs and Excise Management Act 1979
13	Excise duties	Return under regulations under section 100G or 100H of the Customs and Excise Management Act 1979
14	Gaming duty	Return under directions under paragraph 10 of Schedule 1 to FA 1997
15	General betting duty	Return under regulations under section 166 of FA 2014
16	Hydrocarbon oil duties	Return under regulations under section 21 of HODA 1979
17	Income tax	Statement under regulations under paragraph 8 of Schedule A1 to TMA 1970
18	Income tax	Return under any of the following provisions of the Income Tax (PAYE) Regulations 2003 (SI 2003/2682) – (a) regulation 67B (real time returns) (b) regulation 67D (exceptions to regulation 67B)
19	Income tax	Return under section 254 of FA 2004 (pension schemes)

	<i>Tax to which return etc relates</i>	<i>Return or other document</i>
20	Income tax or capital gains tax	(1) Return under section 8 of TMA 1970 (2) Accounts, statement or document required under section 8(1)(b) of TMA 1970 or (when paragraph 3 of Schedule 14 to F(No 2)A 2017 comes into force) section 8(1AB)(b) of TMA 1970
21	Income tax or capital gains tax	(1) Return under section 8A of TMA 1970 (2) Accounts, statement or document required under section 8A(1)(b) of TMA 1970 or (when paragraph 4 of Schedule 14 to F(No 2)A 2017 comes into force) section 8A(1AB)(b) of TMA 1970
22	Income tax or corporation tax	(1) Return under section 12AA(2)(a) or (3)(a) of TMA 1970 (2) Accounts, statement or document required under section 12AA(2)(b) or (3)(b) of TMA 1970
23	Income tax or corporation tax	Return under regulations under paragraph 10 of Schedule A1 to TMA 1970
24	Inheritance tax	Account under section 216 or 217 of IHTA 1984
25	Insurance premium tax	Return under regulations under section 54 of FA 1994
26	Landfill tax	Return under regulations under section 49 of FA 1996
27	Lottery duty	Return under regulations under section 28(2) of FA 1993
28	Machine games duty	Return under regulations under paragraph 18 of Schedule 24 to FA 2012
29	Petroleum revenue tax	Return under paragraph 2 of Schedule 2 to OTA 1975
30	Petroleum revenue tax	Statement under section 1(1)(a) of PRTA 1980
31	Pool betting duty	Return under regulations under section 166 of FA 2014
32	Remote gaming duty	Return under regulations under section 166 of FA 2014
33	Soft drinks industry levy	Return under regulation 21 of the Soft Drinks Industry Levy Regulations 2018 (S.I. 2018/41)
34	Stamp duty land tax	Land transaction return under section 76 of FA 2003 or further return under section 81 of that Act
35	Stamp duty land tax	Return under paragraph 3, 4 or 8 of Schedule 17A to FA 2003
36	Stamp duty reserve tax	Notice of charge to tax under regulations under section 98 of FA 1986
37	Tobacco products duty	Return under regulations under section 7 of TPDA 1979

Interpretation

- 2 (1) This paragraph applies for the interpretation of this Schedule.
- (2) “Return” means any return, statement, account or other document specified in column 3 of the Table in paragraph 1.
- (3) Any reference to making a return includes a reference to delivering or submitting a return.
- (4) “Filing date”, in relation to a return, means the date by which it is required to be made to HMRC.
- (5) References to a liability to tax, in relation to a return falling within item 10 in the Table in paragraph 1 (construction industry scheme) are to a liability to make payments in accordance with Chapter 3 of Part 3 of FA 2004.
- (6) References to an assessment to tax, in relation to inheritance tax and stamp duty reserve tax, are to a determination.
- (7) “HMRC” means Her Majesty’s Revenue and Customs.

PART 2

LIABILITY TO A PENALTY

Penalty for deliberately withholding information

- 3 (1) A person who fails to make a return on or before the filing date is liable to a penalty under this paragraph if (and only if) the condition in sub-paragraph (2) is met.
- (2) The condition is that at any time (including any time after the filing date), by failing to make the return the person deliberately withholds information which would enable or assist HMRC to assess the person’s liability to tax.
- (3) If the withholding of the information is deliberate and concealed, the penalty is –
 - (a) the relevant percentage of any liability to tax which would have been shown in the return in question, or
 - (b) if the amount in paragraph (a) is less than £300, £300.
- (4) For the purposes of sub-paragraph (3)(a) the relevant percentage is –
 - (a) for the withholding of category 0 information, 100%,
 - (b) for the withholding of category 1 information, 125%,
 - (c) for the withholding of category 2 information, 150%, and
 - (d) for the withholding of category 3 information, 200%.
- (5) If the withholding of the information is deliberate but not concealed, the penalty is –
 - (a) the relevant percentage of any liability to tax which would have been shown in the return in question, or
 - (b) if the amount in paragraph (a) is less than £300, £300.
- (6) For the purposes of sub-paragraph (5)(a) the relevant percentage is –
 - (a) for the withholding of category 0 information, 70%,
 - (b) for the withholding of category 1 information, 87.5%,

- (c) for the withholding of category 2 information, 105%, and
 - (d) for the withholding of category 3 information, 140%.
- (7) Paragraph 4 explains the 4 categories of information.
- (8) The withholding of information by a person is—
- (a) deliberate and concealed, if the person deliberately withholds the information and makes arrangements to conceal the fact that the information has been withheld;
 - (b) deliberate but not concealed, if the person deliberately withholds the information but does not make arrangements to conceal the fact that the information has been withheld.
- (9) See paragraphs 14 and 15 for further rules about liability to a penalty.

Categories of information

- 4 (1) Information is category 0 information if—
- (a) it involves a domestic matter,
 - (b) it involves an offshore transfer and the territory in question is a category 0 territory,
 - (c) it involves an offshore matter, the territory in question is a category 0 territory and it is information which would enable or assist HMRC to assess the person’s liability to income tax, capital gains tax or inheritance tax, or
 - (d) it involves an offshore matter and it is information which would enable or assist HMRC to assess the person’s liability to a tax other than income tax, capital gains tax or inheritance tax.
- (2) Information is category 1 information if—
- (a) it involves an offshore matter or an offshore transfer,
 - (b) the territory in question is a category 1 territory, and
 - (c) it is information which would enable or assist HMRC to assess the person’s liability to income tax, capital gains tax or inheritance tax.
- (3) Information is category 2 information if—
- (a) it involves an offshore matter or an offshore transfer,
 - (b) the territory in question is a category 2 territory, and
 - (c) it is information which would enable or assist HMRC to assess the person’s liability to income tax, capital gains tax or inheritance tax.
- (4) Information is category 3 information if—
- (a) it involves an offshore matter or an offshore transfer,
 - (b) the territory in question is a category 3 territory, and
 - (c) it is information which would enable or assist HMRC to assess the person’s liability to income tax, capital gains tax or inheritance tax.
- (5) Information “involves an offshore matter” if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to—
- (a) income arising from a source in a territory outside the UK,
 - (b) assets situated or held in a territory outside the UK,
 - (c) activities carried on wholly or mainly in a territory outside the UK, or

- (d) anything having effect as if it were income, assets or activities of a kind described above.
- (6) If the liability to tax which would have been shown in the return is a liability to inheritance tax, assets are treated for the purposes of sub-paragraph (5) as situated or held in a territory outside the UK if they are so situated or held immediately after the transfer of value by reason of which inheritance tax becomes chargeable.
- (7) Information “involves an offshore transfer” if—
 - (a) it does not involve an offshore matter,
 - (b) it is information which would enable or assist HMRC to assess the person’s liability to income tax, capital gains tax or inheritance tax,
 - (c) by failing to make the return, the person deliberately withholds the information (whether or not the withholding of the information is also concealed), and
 - (d) the applicable condition in paragraph 5 is satisfied.
- (8) Information “involves a domestic matter” if it does not involve an offshore matter or an offshore transfer.
- (9) If the information which the person withholds falls into more than one category—
 - (a) the person’s failure to make the return is to be treated for the purposes of this Schedule as if it were separate failures, one for each category of information according to the matters or transfers which the information involves, and
 - (b) for each separate failure, the liability to tax which would have been shown in the return in question is taken to be such share of the liability to tax which would have been shown in the return mentioned in paragraph (a) as is just and reasonable.
- (10) For the purposes of this Schedule—
 - (a) paragraph 21A of Schedule 24 to FA 2007 (classification of territories) has effect, but
 - (b) an order under that paragraph does not apply to a failure if the filing date is before the date on which the order comes into force.
- (11) In this paragraph and paragraph 5—
 - (a) “assets” has the meaning given in section 21(1) of TCGA 1992, but also includes sterling;
 - (b) “UK” means the United Kingdom, including the territorial sea of the United Kingdom.

Offshore transfers

- 5 (1) This paragraph makes provision in relation to offshore transfers.
- (2) Where the liability to tax which would have been shown in the return is a liability to income tax, the applicable condition is satisfied if the income on or by reference to which the tax is charged, or any part of the income—
 - (a) is received in a territory outside the UK, or
 - (b) is transferred before the relevant date to a territory outside the UK.
- (3) Where the liability to tax which would have been shown in the return is a liability to capital gains tax, the applicable condition is satisfied if the

- proceeds of the disposal on or by reference to which the tax is charged, or any part of the proceeds –
- (a) are received in a territory outside the UK, or
 - (b) are transferred before the relevant date to a territory outside the UK.
- (4) Where the liability to tax which would have been shown in the return is a liability to inheritance tax, the applicable condition is satisfied if –
- (a) the disposition that gives rise to the transfer of value by reason of which the tax becomes chargeable involves a transfer of assets, and
 - (b) after that disposition but before the relevant date the assets, or any part of the assets, are transferred to a territory outside the UK.
- (5) In the case of a transfer falling within sub-paragraph (2)(b), (3)(b) or (4)(b), references to the income, proceeds or assets transferred are to be read as including references to any assets derived from or representing the income, proceeds or assets.
- (6) In relation to an offshore transfer, the territory in question for the purposes of paragraph 4 is the highest category of territory by virtue of which the information involves an offshore transfer.
- (7) “Relevant date” means the date on which the person becomes liable to a penalty under this Schedule.

Reductions for disclosure

- 6 (1) Paragraph 7 provides for reductions in the penalty under this Schedule where the person discloses information which has been withheld by a failure to make a return (“relevant information”).
- (2) A person discloses relevant information that involves a domestic matter by –
- (a) telling HMRC about it,
 - (b) giving HMRC reasonable help in quantifying any tax unpaid by reason of its having been withheld, and
 - (c) allowing HMRC access to records for the purpose of checking how much tax is so unpaid.
- (3) A person discloses relevant information that involves an offshore matter or an offshore transfer by –
- (a) telling HMRC about it,
 - (b) giving HMRC reasonable help in quantifying any tax unpaid by reason of its having been withheld,
 - (c) allowing HMRC access to records for the purpose of checking how much tax is so unpaid, and
 - (d) providing HMRC with additional information.
- (4) The Treasury must make regulations setting out what is meant by “additional information” for the purposes of sub-paragraph (3)(d).
- (5) Regulations under sub-paragraph (4) are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under sub-paragraph (4) is subject to annulment in pursuance of a resolution of the House of Commons.
- (7) Disclosure of relevant information –

- (a) is “unprompted” if made at a time when the person has no reason to believe that HMRC have discovered or are about to discover the relevant information, and
 - (b) otherwise, is “prompted”.
- (8) In relation to disclosure “quality” includes timing, nature and extent.
- (9) Paragraph 4(5) to (8) applies to determine whether relevant information involves an offshore matter, an offshore transfer or a domestic matter.
- 7 (1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table in this paragraph (a “standard percentage”) has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.
- (2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—
- (a) in the case of a prompted disclosure, in column 2 of the Table, and
 - (b) in the case of an unprompted disclosure, in column 3 of the Table.

<i>Standard percentage</i>	<i>Minimum percentage for prompted disclosure</i>	<i>Minimum percentage for unprompted disclosure</i>
70%	45%	30%
87.5%	53.75%	35%
100%	60%	40%
105%	62.5%	40%
125%	72.5%	50%
140%	80%	50%
150%	85%	55%
200%	110%	70%

- (3) But HMRC must not under this paragraph reduce a penalty below £300.

Special reduction

- 8 (1) If HMRC think it right because of special circumstances, they may reduce a penalty under this Schedule.
- (2) In sub-paragraph (1) “special circumstances” does not include—
- (a) ability to pay, or
 - (b) the fact that a potential loss of revenue from a taxpayer is balanced by a potential over-payment by a taxpayer.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
- (a) staying a penalty, and
 - (b) agreeing a compromise in relation to proceedings for a penalty.

Interaction with other penalties

- 9 (1) This paragraph applies where—
- (a) a person is liable to a penalty under this Schedule in respect of a failure, and
 - (b) the amount of the penalty is the amount in paragraph 3(3)(a) or 3(5)(a).
- (2) The amount of that penalty is to be reduced by the amount of any other penalty incurred by the person, the amount of which is determined by reference to the same liability to tax.
- (3) In sub-paragraph (2), the reference to “any other penalty” does not include—
- (a) a penalty under Schedule 56 to FA 2009 (penalty for late payment of tax), or
 - (b) a penalty under Part 4 of FA 2014 (penalty where corrective action not taken after follower notice etc.).

Determination of penalty where no return made

- 10 (1) For the purposes of a penalty under this Schedule references to a liability to tax which would have been shown in a return are references to the amount which, if a complete and accurate return had been delivered on the filing date, would have been shown to be due or payable by the taxpayer in respect of the tax concerned for the period to which the return relates.
- (2) In the case of a penalty which is assessed at a time before the person makes the return to which the penalty relates, HMRC may either—
- (a) proceed on the assumption that the amount in paragraph 3(3)(a) is less than the amount in paragraph 3(3)(b), or the amount in paragraph 3(5)(a) is less than the amount in paragraph 3(5)(b), or
 - (b) determine the amount mentioned in sub-paragraph (1) to the best of HMRC’s information and belief.
- (3) If the person subsequently makes a return, the penalty must be re-assessed by reference to the amount of tax shown to be due and payable in that return (but subject to any amendments or corrections to the return).
- (4) In calculating a liability to tax which would have been shown in a return, no account is to be taken of any relief under section 458 of CTA 2010 (relief in respect of repayment etc of loan) which is deferred under subsection (5) of that section.

Assessments

- 11 (1) Where a person is liable for a penalty under this Schedule HMRC may assess the penalty.
- (2) Where HMRC assess a penalty they must—
- (a) notify the person, and
 - (b) state in the notice the failure (or failures) for which the person is liable to a penalty.
- (3) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.

- (4) An assessment of a penalty under this Schedule –
- (a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for in this Schedule),
 - (b) may be enforced as if it were an assessment to tax, and
 - (c) may be combined with an assessment to tax.

Supplementary assessments

- 12 (1) A supplementary assessment may be made in respect of a penalty under this Schedule if an earlier assessment –
- (a) is based on a liability to tax that would have been shown in a return, and that liability is found by HMRC to be an underestimate, or
 - (b) is based on a liability to tax that is found by HMRC to be insufficient.
- (2) Sub-paragraph (3) applies if an assessment in respect of a penalty –
- (a) is based on a liability to tax that would have been shown in a return, and that liability is found by HMRC to be an overestimate, or
 - (b) is based on a liability to tax that is found by HMRC to be excessive.
- (3) HMRC may by notice to the person amend the assessment so that it is based upon the correct amount.
- (4) An amendment under sub-paragraph (3) –
- (a) does not affect when the penalty must be paid;
 - (b) may be made after the last day on which the assessment in question could have been made under paragraph 13.

Time limit for assessments

- 13 (1) An assessment of a penalty under this Schedule may not be made after the later of Date A and (where it applies) Date B.
- (2) Date A is the end of the period of 2 years beginning with the filing date.
- (3) Date B is the last day of the period of 12 months beginning with –
- (a) the end of the appeal period for the assessment of the liability to tax which would have been shown in the return, or
 - (b) if there is no such assessment, the date on which that liability is ascertained or it is ascertained that the liability is nil.
- (4) In sub-paragraph (3)(a) “appeal period” means the period during which –
- (a) an appeal could be brought, or
 - (b) an appeal that has been brought has not been determined or withdrawn.
- (5) Sub-paragraph (1) does not apply to a re-assessment under paragraph 10(3).
- (6) A re-assessment under that paragraph must be made before the end of the period of 2 years beginning with the day on which the return is made.

PART 3

SUPPLEMENTARY PROVISION

Double jeopardy

- 14 A person is not liable to a penalty under this Schedule in respect of a failure or action in respect of which the person has been convicted of an offence.

Withdrawal of notice to file a return

- 15 (1) This paragraph applies where –
- (a) a person is liable for a penalty under this Schedule in relation to a failure to make a return within item 20 or 21 in the Table in paragraph 1, and
 - (b) HMRC decide (on the request of the person or otherwise) to give the person a notice under section 8B of TMA 1970 withdrawing a notice under section 8 or 8A of that Act.
- (2) This paragraph also applies where –
- (a) a person is liable for a penalty under this Schedule in relation to a failure to make a return within item 22 in the Table in paragraph 1, and
 - (b) HMRC decide (on a request under section 12AAA of TMA 1970) to give a notice under that section withdrawing a notice under section 12AA of that Act.
- (3) The notice under section 8B or 12AAA of TMA 1970 may include provision under this paragraph cancelling liability to the penalty from the date specified in the notice.

Appeals

- 16 (1) A person may appeal against a decision of HMRC that a penalty is payable by the person.
- (2) A person may appeal against a decision of HMRC as to the amount of a penalty payable by the person.
- 17 (1) An appeal under paragraph 16 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
- (2) Sub-paragraph (1) does not apply –
- (a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or
 - (b) in respect of any other matter expressly provided for by this Schedule.
- 18 (1) On an appeal under paragraph 16(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision that a penalty is payable by the person.

- (2) On an appeal under paragraph 16(2) that is notified to the tribunal, the tribunal may –
 - (a) affirm HMRC’s decision, or
 - (b) substitute for HMRC’s decision another decision that HMRC had power to make.
- (3) If the tribunal substitutes its decision for HMRC’s decision in relation to a penalty under this Schedule, the tribunal may rely on paragraph 8 –
 - (a) to the same extent as HMRC (which may mean applying the same percentage reductions as HMRC to a different starting point), or
 - (b) to a different extent, but only if the tribunal thinks that HMRC’s decision in respect of the application of paragraph 8 was flawed.
- (4) In sub-paragraph (3)(b) “flawed” means flawed when considered in the light of the principles applicable in proceedings for judicial review.
- (5) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 17(1)).

Partnerships

- 19 (1) This paragraph applies where –
 - (a) the representative partner, or a successor of the representative partner, fails to make a return falling within item 22 in the Table in paragraph 1, or
 - (b) the nominated partner fails to make a return falling within item 23 of that Table.
- (2) A penalty in respect of the failure is payable by every relevant partner.
- (3) In accordance with sub-paragraph (2), any reference in this Schedule to the person is to be read as including the relevant partner.
- (4) An appeal under paragraph 16 in connection with a penalty payable by virtue of this paragraph may be brought only by –
 - (a) the representative partner or a successor of the representative partner, in a case within sub-paragraph (1)(a), or
 - (b) the nominated partner, in a case within sub-paragraph (1)(b).
- (5) Where such an appeal is brought in connection with a penalty payable in respect of a failure, the appeal is to be treated as if it were an appeal in connection with every penalty payable in respect of that failure.
- (6) In this paragraph –
 - “nominated partner” has the meaning given by paragraph 5(5) of Schedule A1 to TMA 1970;
 - “relevant partner” means a person who was a partner in the partnership to which the return relates at any time during the period in respect of which the return was required;
 - “representative partner” means a person who has been required by a notice served under or for the purposes of section 12AA(2) or (3) of TMA 1970 to deliver any return;
 - “successor” has the meaning given by section 12AA(11) of TMA 1970.

Companies

- 20 (1) Where a penalty under this Schedule is payable by a company for a deliberate act or failure which was attributable to an officer of the company, the officer is liable to pay such portion of the penalty (which may be 100%) as HMRC may specify by written notice to the officer.
- (2) Sub-paragraph (1) does not allow HMRC to recover more than 100% of a penalty.
- (3) In the application of sub-paragraph (1) to a body corporate “officer” means—
- (a) a director (including a shadow director within the meaning of section 251 of the Companies Act 2006),
 - (b) a manager, and
 - (c) a secretary.
- (4) In the application of sub-paragraph (1) in any other case “officer” means—
- (a) a director,
 - (b) a manager,
 - (c) a secretary, and
 - (d) any other person managing or purporting to manage any of the company’s affairs.
- (5) Where HMRC have specified a portion of a penalty in a notice given to an officer under sub-paragraph (1)—
- (a) paragraph 8 (special reduction) applies to the specified portion as to a penalty,
 - (b) the officer must pay the specified portion before the end of the period of 30 days beginning with the day on which the notice is given,
 - (c) paragraphs 11(4) and 13 (assessments) apply as if the notice were an assessment of a penalty,
 - (d) a further notice may be given in respect of a portion of any additional amount assessed in a supplementary assessment in respect of the penalty under paragraph 12 (supplementary assessments),
 - (e) paragraph 14 (double jeopardy) applies as if the officer were liable to a penalty, and
 - (f) paragraphs 16 to 18 (appeals) apply as if HMRC had decided that a penalty of the amount of the specified portion is payable by the officer.
- (6) In this paragraph “company” means any body corporate or unincorporated association, but does not include any partnership, a local authority or a local authority association.

SCHEDULE 13

Section 31

PENALTIES FOR FAILURE TO PAY TAX

PART 1

INTRODUCTION

Introduction

- 1 This Schedule makes provision for penalties to be payable by a person who fails to pay an amount of tax specified in column 3 of the Table (“the tax due”) on or before the date specified in column 4 of the Table (“the specified date”).

PRINCIPAL AMOUNTS

<i>Item no</i>	<i>Relevant tax</i>	<i>Amount of tax</i>	<i>Specified date</i>
1	Corporation tax	Amount payable under regulations under section 59E of TMA 1970 (except an amount falling within item 19, 20 or 21)	The day following the expiry of nine months from the end of the accounting period for which the tax is due
2	Corporation tax	Amount payable under an exit charge payment plan entered into in accordance with Schedule 3ZB to TMA 1970	The date on which the amount is payable under the plan
3	Corporation tax	Amount shown in company tax return under paragraph 3 of Schedule 18 to FA 1998	The day following the expiry of nine months from the end of the accounting period for which the tax is due
4	Corporation tax	Amount payable under section 357YQ of CTA 2010	The end of the period within which, in accordance with section 357YQ(5), the amount must be paid
5	Income tax	Amount payable under PAYE regulations	The date determined by or under PAYE regulations as the date by which the amount must be paid
6	Income tax	Amount payable under regulations under section 244L(2)(a) of FA 2004	The due date determined by or under the regulations
7	Income tax	Amount shown in return under section 254(1) of FA 2004	The date specified in section 254(5) of FA 2004 as the date by which the amount must be paid
8	Income tax or capital gains tax	Amount payable under section 59B(3) or (4) of TMA 1970	The date specified in section 59B(3) or (4) of TMA 1970 as the date by which the amount must be paid
9	Income tax or capital gains tax	Amount payable under section 59BA(4) or (5) of TMA 1970	The date specified in section 59BA(4) or (5) of TMA 1970 as the date by which the amount must be paid

PRINCIPAL AMOUNTS

<i>Item no</i>	<i>Relevant tax</i>	<i>Amount of tax</i>	<i>Specified date</i>
10	Value added tax	Amount payable under section 25(1) of VATA 1994 (except an amount falling within item 11, 16, 25 or 26)	The date determined – (a) by or under regulations under section 25 of VATA 1994, or (b) in accordance with an order under section 28 of VATA 1994, as the date by which the amount must be paid
11	Value added tax	Amount payable under section 25(1) of VATA 1994 which is an instalment of an amount due in respect of a period of 9 months or more (“amount A”)	The date by which any balancing payment, or other outstanding payment due in respect of amount A, must be paid
12	Value added tax	Amount payable under relevant special scheme return (as defined in paragraph 16(3) of Schedule 3B to VATA 1994) (except an amount falling within item 16, 17, 18, 25 or 26)	The date by which the amount must be paid under the law of the member State which has established the special scheme
13	Value added tax	Amount payable under relevant non-UK return (as defined in paragraph 20(3) of Schedule 3BA to VATA 1994) (except an amount falling within item 16, 17, 18, 25 or 26)	The date by which the amount must be paid under the law of the member State which has established the non-UK special scheme

AMOUNTS PAYABLE IN DEFAULT OF RETURN BEING MADE

<i>Item no</i>	<i>Relevant tax</i>	<i>Amount of tax</i>	<i>Specified date</i>
14	Corporation tax	Amount shown in determination under paragraph 36 or 37 of Schedule 18 to FA 1998	The date by which the tax due for the accounting period to which the determination relates is due and payable
15	Income tax or capital gains tax	Amount payable under section 59B(5A) of TMA 1970	The date specified in section 59B(5A) of TMA 1970 as the date by which the amount must be paid
16	Value added tax	Amount assessed under section 73(1) of VATA 1994 in the absence of a return	The date falling 30 days after the date on which the assessment is made

AMOUNTS PAYABLE IN DEFAULT OF RETURN BEING MADE

<i>Item no</i>	<i>Relevant tax</i>	<i>Amount of tax</i>	<i>Specified date</i>
17	Value added tax	Amount assessed under section 73(1) of VATA 1994, by virtue of paragraph 16 of Schedule 3B to that Act, in the absence of a value added tax return (as defined in paragraph 23(1) of that Schedule)	The date by which the amount would have been required to be paid under the law of the member State under whose law the return was required
18	Value added tax	Amount assessed under section 73(1) of VATA 1994, by virtue of paragraph 20 of Schedule 3BA to that Act, in the absence of a relevant non-UK return (as defined in paragraph 38(1) of that Schedule)	The date by which the amount would have been required to be paid under the law of the member State under whose law the return was required
19	Tax falling within any of items 1 to 9	Amount (not falling within item 14 or 15) which is shown in an assessment or determination made by HMRC in the circumstances set out in paragraph 2	The date by which the amount would have been required to be paid if it had been shown in the return in question

AMOUNTS SHOWN TO BE DUE IN OTHER ASSESSMENTS, DETERMINATIONS ETC

<i>Item no</i>	<i>Relevant tax</i>	<i>Amount of tax</i>	<i>Specified date</i>
20	Corporation tax	Amount shown in an amendment or correction of a return showing an amount falling within items 1 to 4	The date falling 30 days after the date on which the amendment or correction is made
21	Corporation tax	Amount shown in an assessment or determination made by HMRC in circumstances other than those set out in paragraph 2	The date falling 30 days after the date on which the assessment or determination is made
22	Income tax or capital gains tax	Amount payable under section 55 of TMA 1970	The date determined in accordance with section 55(3), (4), (6) or (9) of TMA 1970 as the date by which the amount must be paid
23	Income tax or capital gains tax	Amount payable under section 59B(5) or (6) of TMA 1970	The date specified in section 59B(5) or (6) of TMA 1970 as the date by which the amount must be paid

AMOUNTS SHOWN TO BE DUE IN OTHER ASSESSMENTS, DETERMINATIONS ETC

<i>Item no</i>	<i>Relevant tax</i>	<i>Amount of tax</i>	<i>Specified date</i>
24	Income tax or capital gains tax	Amount (not falling within item 22 or 23) shown in an amendment or correction of a return showing an amount falling within any of items 5 to 9	The later of— (a) the date by which the amount must be paid, and (b) the date on which the amendment or correction is made
25	Value added tax	Amount shown in an amendment or correction of a return showing an amount falling within item 10	The date falling 30 days after the date on which the amendment or correction is made
26	Value added tax	Amount shown in an assessment or determination made by HMRC in circumstances other than those set out in paragraph 2	The date falling 30 days after the date on which the assessment or determination is made
27	Tax falling within any of items 5 to 9	Amount (not falling within item 22 or 23) shown in an assessment or determination made by HMRC in circumstances other than those set out in paragraph 2	The later of— (a) the date by which the amount must be paid, or (b) the date on which the assessment or determination is made

Assessments and determinations in default of return

- 2 The circumstances referred to in items 19, 21, 26 and 27 are where—
- (a) a person is required to make or deliver a return which falls within—
 - (i) any item in the Table in Schedule 55 to FA 2009, or
 - (ii) any group of returns in Table 1, 2 or 3 of Schedule [*Penalties for failure to make returns*],
 - (b) that person fails to make or deliver the return on or before the date by which it is required to be made or delivered, and
 - (c) if the return had been made or delivered as required, the return would have shown that an amount falling within any of items 1 to 13 was due and payable.

Different specified date for certain payments

- 3 (1) This paragraph applies where—
- (a) an amount falling within item 3 of the Table in paragraph 1 is not paid in full on or before the date determined in accordance with column 4 of that Table, but
 - (b) an amount is paid on or before that date which represents a reasonable estimate of the amount due.
- (2) In relation to so much of the amount due as was not paid on or before that date, treat the specified date as the filing date for the company tax return for

the accounting period for which the tax is due (see paragraph 14 of Schedule 18 to FA 1998).

- 4 PAYE regulations may provide that, in relation to payments of tax falling within item 5 of the Table in paragraph 1 and specified in the regulations, the specified date is a date later than that determined in accordance with column 4 of that Table.

PART 2

LIABILITY TO A PENALTY

No penalty if payment in full before end of 15 day period

- 5 No penalty is payable if—
- (a) the tax due is paid in full before the end of the 15 day period, or
 - (b) the 15 day time to pay condition is met,
- (but see paragraph 8).

First penalty: tax remains due at end of 15 day period

- 6 (1) A penalty is payable under this paragraph if—
- (a) the tax due is not paid in full before the end of the 15 day period, and
 - (b) the 15 day time to pay condition is not met.
- (2) If the tax due is paid in full after the end of the 15 day period but before the end of the 30 day period, the amount of the penalty is amount A.
- (3) If the tax due is not paid in full before the end of the 30 day period, the amount of the penalty is—
- (a) if the 30 day time to pay condition is met, amount A, and
 - (b) if the 30 day time to pay condition is not met, the total of amount A and amount B,
- (but see paragraph 8).
- (4) Amount A is $[0.5x]\%$ of so much of the tax due as is unpaid at the end of the 15 day period.
- (5) Amount B is $[0.5x]\%$ of so much of the tax due as is unpaid at the end of the 30 day period.

Meaning of “15 day time to pay condition” and “30 day time to pay condition”

- 7 (1) The 15 day time to pay condition is met if a time to pay agreement is made (whether before or after the end of the 15 day period) as a result of proposals for paying the tax due made by the person before the end of the 15 day period.
- (2) The 30 day time to pay condition is met if a time to pay agreement is made (whether before or after the end of the 30 day period) as a result of proposals for paying the tax due made by the person after the end of the 15 day period, but before the end of the 30 day period.

First penalty: effect of breaking time to pay agreement

- 8 (1) This paragraph applies where—

- (a) the 15 day time to pay condition or the 30 day time to pay condition is met, and
 - (b) the person breaks the time to pay agreement by virtue of which the condition was met.
- (2) If HMRC gives the person notice that a penalty is payable under paragraph 6, a penalty is payable under that paragraph as if the condition in question had never been met.

Second penalty: tax remains due at end of 30 day period

- 9 (1) A penalty is payable under this paragraph if any amount of the tax due is unpaid at the end of the 30 day period.
- (2) The amount of the penalty is calculated by applying the penalty rate, during the further penalty period, to so much of the tax due as is from time to time unpaid.
- (3) The penalty rate is [x]% per annum.
- (4) The further penalty period is the period –
- (a) beginning with the day after the last day of the 30 day period, and
 - (b) ending with the day on which the tax due is paid in full.
- (5) But if a time to pay agreement has effect during the further penalty period, the further penalty period does not include the period –
- (a) beginning with the relevant day, and
 - (b) ending with the day on which the tax due is paid in full,
- (but see paragraph 10).
- (6) The relevant day is the day on which the person makes the proposals to HMRC for paying the tax due, as a result of which the time to pay agreement is made.

Second penalty: effect of breaking time to pay agreement

- 10 (1) This paragraph applies where –
- (a) a time to pay agreement has effect during the further penalty period, and
 - (b) the person breaks the time to pay agreement.
- (2) If HMRC gives the person notice that a penalty is payable under paragraph 9, a penalty is payable under that paragraph as if the time to pay agreement had never had effect.

Interpretation of Part 2

- 11 (1) This paragraph gives the meaning of terms used in this Part of this Schedule.
- (2) The “15 day period”, in relation to tax due, is the period of 15 days beginning with the day after the specified date.
- (3) The “30 day period”, in relation to tax due, is the period of 30 days beginning with the day after the specified date.

- (4) A “time to pay agreement” is an agreement between HMRC and a person that payment of an amount of tax due (the “deferred amount”) may be deferred for a period (the “deferral period”).
- (5) A person breaks a time to pay agreement if –
 - (a) the person fails to pay the deferred amount when the deferral period ends, or
 - (b) the deferral is subject to the person complying with a condition (including a condition that part of the deferred amount be paid during the deferral period) and the person fails to comply with it.
- (6) If a time to pay agreement is varied at any time by a further agreement between the person and HMRC, references in this Schedule to the agreement include the agreement as varied.

Power to amend figures by regulations

- 12 The Commissioners for HMRC may by regulations amend this Part of this Schedule so as to –
 - (a) change references to 15 days (or to another number of days resulting from the previous exercise of powers under this sub-paragraph) to references to a greater or lesser number of days;
 - (b) change references to 30 days (or to another number of days resulting from the previous exercise of powers under this sub-paragraph) to references to a greater or lesser number of days;
 - (c) increase or reduce the percentage specified in paragraph 6(4);
 - (d) increase or reduce the percentage specified in paragraph 6(5);
 - (e) increase or reduce the percentage specified in paragraph 9(3).

PART 3

SUPPLEMENTARY PROVISION

Reasonable excuse

- 13 (1) Liability to a penalty under this Schedule does not arise in respect of a failure to make a payment if the person shows HMRC (or on appeal, the tribunal) that there is a reasonable excuse for the failure.
- (2) For this purpose –
 - (a) an insufficiency of funds is not a reasonable excuse, unless the person shows it was attributable to events outside the person’s control,
 - (b) where the person relies on another to do anything, that is not a reasonable excuse unless the person shows that the person took reasonable care to avoid the failure, and
 - (c) where the person had a reasonable excuse for the failure but the excuse has ceased, the person is to be treated as having continued to have the excuse only if the person shows that the failure was remedied without unreasonable delay after the excuse ceased.
- (3) In this paragraph “tribunal” means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 20(1)).

Double jeopardy

- 14 A person is not liable to a penalty under this Schedule in respect of a failure in respect of which the person has been convicted of an offence.

Interaction with other penalties

- 15 In the application of the following provisions, no account is to be taken of a penalty under this Schedule –
- (a) section 97A of TMA 1970 (multiple penalties),
 - (b) paragraph 12(2) of Schedule 24 to FA 2007 (interaction with other penalties), and
 - (c) paragraph 15(1) of Schedule 41 to FA 2008 (interaction with other penalties).

Assessments

- 16 (1) Where a person is liable for a penalty under this Schedule HMRC may assess the penalty.
- (2) HMRC may by regulations make provision for HMRC to assess a penalty under paragraph 9 at times or intervals before the end of the further penalty period.
- (3) Where HMRC assess a penalty they must notify the person and state in the notice –
- (a) the failure to pay tax due, for which the person is liable for the penalty,
 - (b) the amount of the penalty, and
 - (c) how that amount has been calculated (including, in the case of a penalty under paragraph 9, the period to which the penalty relates).
- (4) A penalty under this Schedule must be paid before the end of the period of 30 days beginning with the day on which notification of the penalty is issued.
- (5) An assessment of a penalty under this Schedule –
- (a) is to be treated for procedural purposes in the same way as an assessment to tax (except in respect of a matter expressly provided for in this Schedule),
 - (b) may be enforced as if it were an assessment to tax, and
 - (c) may be combined with an assessment to tax.
- 17 (1) A supplementary assessment may be made in respect of a penalty if an earlier assessment is based on an amount of tax due and payable that is found by HMRC to be an underestimate or insufficient.
- (2) If an assessment in respect of a penalty is based on an amount of tax due or payable that is found by HMRC to be excessive, HMRC may by notice amend the assessment so that it is based upon the correct amount.
- (3) An amendment under sub-paragraph (2) –
- (a) does not affect when the penalty must be paid;
 - (b) may be made after the last day on which the assessment in question could have been made under paragraph 18.

Time limit for assessments

- 18 An assessment of a penalty under this Schedule in respect of any amount must be made before the end of the period of 12 months beginning with the day after the day on which the amount is paid in full.

Appeals

- 19 (1) A person may appeal against a decision of HMRC that the person is liable to a penalty under this Schedule.
- (2) A person liable to a penalty under this Schedule may appeal against a decision of HMRC as to the amount of the penalty.
- 20 (1) An appeal under paragraph 19 is to be treated in the same way as an appeal against an assessment to the tax concerned (including by the application of any provision about bringing the appeal by notice to HMRC, about HMRC's review of the decision or about determination of the appeal by the First-tier Tribunal or Upper Tribunal).
- (2) Sub-paragraph (1) does not apply –
- (a) so as to require the person to pay a penalty before an appeal against the assessment of the penalty is determined, or
- (b) in respect of any other matter expressly provided for by this Schedule.
- 21 (1) On an appeal under paragraph 19(1) that is notified to the tribunal, the tribunal may affirm or cancel HMRC's decision.
- (2) On an appeal under paragraph 19(2) that is notified to the tribunal, the tribunal may –
- (a) affirm HMRC's decision, or
- (b) substitute for HMRC's decision another decision that HMRC had power to make.
- (3) In this paragraph "tribunal" means the First-tier Tribunal or Upper Tribunal (as appropriate by virtue of paragraph 20(1)).

Regulations: supplementary provision

- 22 (1) Regulations under this Schedule are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under paragraph 12 (powers to amend Part 2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.
- (3) A statutory instrument containing regulations under paragraph 16 (assessments) is subject to annulment in pursuance of a resolution of the House of Commons.
- (4) Regulations under this Schedule may include transitional, transitory and saving provision.

Interpretation

- 23 In this Schedule "HMRC" means Her Majesty's Revenue and Customs.

SCHEDULE 14

Section 32

REPAYMENT INTEREST: VAT

- 1 FA 2009 is amended as follows.
- 2 In section 102(4) (repayment interest on sums to be paid by HMRC) –
- (a) omit the “and” at the end of paragraph (a);
 - (b) after paragraph (a) insert –
 - “(aa) Part 2A makes special provision as to the period for which an amount of VAT credit carries interest, and”.
- 3 (1) Schedule 54 (repayment interest) is amended as follows.
- (2) In Part 2, after paragraph 12B insert –
- “VAT payments on account*
- 12C (1) This paragraph applies in the case of a repayment of the amount by which –
- (a) the total amount of payments on account made in respect of a prescribed accounting period, exceeds
 - (b) the amount of VAT payable in respect of that accounting period.
- (2) The repayment interest start date is the date on which the return for the prescribed accounting period is due.
- (3) In this paragraph –
- “payment on account” means a payment on account required under section 28 of VATA 1994;
- “prescribed accounting period” has the same meaning as in VATA 1994.”
- (3) After Part 2 insert –

“PART 2A

VAT: SPECIAL PROVISION AS TO PERIOD FOR WHICH AMOUNT CARRIES INTEREST

- 12D In this Part of this Schedule –
- “prescribed accounting period” has the same meaning as in VATA 1994;
- “relevant VAT return” means the VAT return for the prescribed accounting period to which the VAT credit relates;
- “VAT credit” has the same meaning as in VATA 1994;
- “VAT return” means a return required to be made by regulations under VATA 1994.
- 12E (1) An amount of VAT credit does not carry interest for any period referable to –
- (a) the raising and answering of any reasonable inquiry relating to the relevant VAT return, or

- (b) the correction by HMRC of any errors or omissions in the relevant VAT return.
- (2) The period referred to in sub-paragraph (1)(a) –
 - (a) begins on the date when HMRC first consider it necessary to make such an inquiry, and
 - (b) ends on the date when HMRC receive a complete answer to their inquiry or decide not to make, or not to pursue, the inquiry.
- (3) The period referred to in sub-paragraph (1)(b) –
 - (a) begins on the date when the error or omission first comes to the attention of HMRC, and
 - (b) ends on the date when the error or omission is corrected.
- 12F (1) An amount of VAT credit does not carry interest for any period during which –
 - (a) a VAT return required to be made on or before the date on which the relevant VAT return is made has not been made, or
 - (b) there is a failure to comply with a requirement imposed under paragraph 4(1) or (1A) of Schedule 11 to VATA 1994 (production of evidence and giving of security).
- (2) The period referred to in sub-paragraph (1)(b) –
 - (a) begins on the date when written notice requiring production of evidence or the giving of security is given by HMRC, and
 - (b) ends on the date when HMRC receive the required evidence or the required security.”

SCHEDULE 15

Section 36

PAYMENT OF CGT EXIT CHARGES

CGT exit charge payment plans

- 1 In TMA 1970, after section 59BA insert –

“59BB CGT exit charge payment plans

Schedule 3ZAA contains provision for the payment in instalments of capital gains tax to which liability arises by virtue of section 25 or 80 of the 1992 Act.”

2 After Schedule 3ZA to TMA 1970 insert –

“SCHEDULE 3ZAA

Section 59BB

CGT EXIT CHARGE PAYMENT PLANS

Introduction

- 1 (1) This Schedule makes provision for certain persons who are liable to pay an exit charge under section 25 or 80 of the 1992 Act to agree with HMRC to pay the charge in instalments.
- (2) An agreement under this Schedule is called a “CGT exit charge payment plan”.

Eligibility

- 2 (1) This paragraph applies where a person resident in an EEA state outside the United Kingdom is liable to pay an exit charge for a tax year by virtue of section 25(1) or (3) of the 1992 Act (deemed disposals by non-residents).
- (2) The person is eligible to enter into a CGT exit charge payment plan in relation to any one or more of the assets to which the exit charge relates if –
 - (a) at the time of the event giving rise to the exit charge, the person had a right to freedom of establishment, or
 - (b) at any time after that event, the person carries on a trade in an EEA state other than the United Kingdom through a branch or agency and the asset or assets is or are –
 - (i) used in or for the purposes of that trade, or
 - (ii) used or held for the purposes of the branch or agency.
- 3 (1) This paragraph applies where the relevant trustees of a settlement are liable to pay an exit charge for a tax year by virtue of section 80 of the 1992 Act (charge on ceasing to be resident in the UK).
- (2) The relevant trustees are eligible to enter into a CGT exit charge payment plan in relation to any one or more of the assets to which the exit charge relates if –
 - (a) at the time the trustees of the settlement ceased to be resident in the United Kingdom for the purposes of that section, they had a right to freedom of establishment,
 - (b) immediately before that time, the trustees of the settlement used the asset or assets for an economically significant activity carried on in the United Kingdom, and
 - (c) immediately after that time, those trustees –
 - (i) become resident in another EEA state for the purposes of the 1992 Act, and
 - (ii) use the asset or assets for an economically significant activity carried on there.

Tax to which a plan relates

- 4 (1) A CGT exit charge payment plan may relate to –
- (a) the whole of the exit charge attributable to the asset or assets to which the plan relates (the “deferrable exit charge”), or
 - (b) only part of the deferrable exit charge.
- (2) In this Schedule –
- “deferred exit charge” means the amount of the exit charge to which a plan relates;
 - “taxpayer”, in relation to a plan, means the person eligible under paragraph 2 or 3 to enter into the plan.
- (3) For the purposes of this Schedule the exit charge attributable to an asset is such proportion of the exit charge as any gain accruing to the taxpayer in respect of the asset by virtue of section 25(1) or (3) or 80 of the 1992 Act in the tax year bears to the total gains to which the exit charge relates.

Payment by instalments

- 5 A CGT exit charge payment plan must provide for the deferred exit charge to be payable in 6 equal instalments where –
- (a) the 1st instalment is due on the day on which payment of the exit charge is (apart from the plan) due and payable under section 59B, and
 - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.

Entering into a plan

- 6 (1) To enter into a CGT exit charge payment plan, the taxpayer must apply to HMRC.
- (2) An application for a CGT exit charge payment plan must –
- (a) be made before the date specified in section 59B as the date by which the exit charge is payable, and
 - (b) contain details of all the matters which are required by this Schedule to be specified in the plan.
- (3) A CGT exit charge payment plan is entered into when –
- (a) the taxpayer agrees to pay the deferred exit charge, and any interest on it, in accordance with the plan, and
 - (b) an officer of Revenue and Customs agrees to accept payment of the deferred exit charge in accordance with the plan.
- (4) A CGT exit charge payment plan is void if –
- (a) an event giving rise to the exit charge is part of arrangements the main purpose of which, or one of the main purposes of which, is to defer the payment by the taxpayer of the exit charge, or
 - (b) any information furnished by the taxpayer in connection with the plan does not fully and accurately disclose all

facts and considerations material to the decision of the officer of Revenue and Customs to accept payment in accordance with the plan.

Contents of a plan

- 7 (1) If the taxpayer is eligible under paragraph 2, a CGT exit charge payment plan must specify –
 - (a) the EEA state in which the person entering into the plan is resident, and
 - (b) if the person has ceased to carry on a trade in the United Kingdom through a branch or agency there, the date on which the person ceased to do so.
- (2) If the taxpayer is eligible under paragraph 3, a CGT exit charge payment plan must specify –
 - (a) the date on which the trustees of the settlement became not resident in the United Kingdom for the purposes of section 80 of the 1992 Act, and
 - (b) the EEA state in which those trustees became resident.
- (3) A CGT exit charge payment plan must specify –
 - (a) the amount of the exit charge which, in the taxpayer's opinion, the taxpayer is liable to pay under section 25 or (as the case may be) section 80 of the 1992 Act in respect of the tax year, and
 - (b) the amount of the deferred exit charge.
- (4) A CGT exit charge payment plan may contain appropriate provision regarding security for HMRC if an officer of Revenue and Customs considers that there would be a serious risk to collection of any amount of deferred exit charge without it.

Effect of a plan

- 8 (1) This paragraph applies where a CGT exit charge payment plan is entered into by the taxpayer.
- (2) The deferred exit charge remains due and payable under section 59B (payment of income tax and capital gains tax: assessments other than simple assessments).
- (3) However, the Commissioners for Her Majesty's Revenue and Customs –
 - (a) may not seek payment of any of the deferred exit charge otherwise than in accordance with the plan, and
 - (b) may make repayments in respect of any of the deferred exit charge paid, or any amount paid on account of the deferred exit charge, before the plan is entered into.
- (4) The deferred exit charge carries interest in accordance with Part 9 as if the plan had not been entered into; and each time a payment is made under the plan, it is to be paid together with any interest payable on it.

- (5) The taxpayer is liable to penalties for late payment of the deferred exit charge only if the taxpayer fails to make payments in accordance with the plan (see item 3B of the Table at the end of paragraph 1 of Schedule 56 to the Finance Act 2009).
- (6) Any of the deferred exit charge which is for the time being unpaid may be paid at any time before it becomes payable under the plan together with interest payable on it to the date of payment.
- (7) If –
- (a) the taxpayer becomes bankrupt under the law of England and Wales or Northern Ireland or the taxpayer’s estate is sequestrated under the law of Scotland,
 - (b) an event corresponding to an event in paragraph (a) occurs under the law of an EEA state outside the United Kingdom, or
 - (c) the taxpayer becomes resident in a country or territory that is not an EEA state,
- the outstanding balance of the deferred exit charge is payable on the date on which the next instalment would otherwise have been due under the plan.

Supplementary

- 9 If, for the purposes of any double taxation arrangements, a person is treated at any time as resident in a territory other than an EEA state, the person is also to be treated as resident there at that time for the purposes of this Schedule.
- 10 In this Schedule –
- “deferrable exit charge” has the meaning given by paragraph 4(1)(a);
 - “deferred exit charge” has the meaning given by paragraph 4(2);
 - “double taxation arrangements” means arrangements made by two or more territories with a view to affording relief from double taxation;
 - “economically significant activity” has the meaning given by section 13A(4) of the 1992 Act (reading references to a company as references to trustees);
 - “exit charge” means –
 - (a) for the purposes of paragraph 2, any amount of capital gains tax which a person is liable to pay for a tax year which the person would not be liable to pay if gains arising by virtue of section 25 of the 1992 Act in the tax year were ignored;
 - (b) for the purposes of paragraph 3, any amount of capital gains tax which the relevant trustees are liable to pay for a tax year which they would not be liable to pay if gains arising by virtue of section 80 of the 1992 Act in the tax year were ignored;
 - “right to freedom of establishment” means a right protected by –

- (a) Article 49 of the Treaty on the Functioning of the European Union, or
 - (b) Article 31 of the EEA agreement;
- “taxpayer” has the meaning given by paragraph 4(2);
“trade” includes a profession or vocation.”

Penalties

- 3 (1) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended as follows.
- (2) In the Table at the end of paragraph 1, after entry 3A insert –

“3B	Capital gains tax	Amount payable under a CGT exit charge payment plan entered into in accordance with Schedule 3ZAA to TMA 1970	The later of – (a) the date falling 30 days after the date specified in section 59B of TMA 1970 as the date by which the amount is due to be paid, and (b) the date on which the amount is payable under the plan.”
-----	-------------------	---	---

- (3) In paragraph 3(1)(a), after “3” insert “, 3B”.
- 4 In section 107A of TMA 1970 (relevant trustees), in subsection (3)(c)(i), after “1,” insert “3B,”.
- 5 In paragraph 5 of Schedule 11 to F(No.3)A 2010 (penalties for failure to make payments on time), for sub-paragraph (3) substitute –
“(3) In paragraph (a), for “and 7 to 24” substitute “, 6B, 7 to 11 and 12 to 24”.”

CT exit charge payment plans

- 6 (1) In sections 59FA, 109B and 109E of and Schedule 3ZB to TMA 1970 (including any headings of, and in, those provisions) –
- (a) for “an exit charge payment plan”, in each case it occurs, substitute “a CT exit charge payment plan”,
 - (b) for “exit charge payment plan”, in each case it occurs without “an” before it, substitute “CT exit charge payment plan”, and
 - (c) for “exit charge payment plans” in each case it occurs, substitute “CT exit charge payment plans”.
- (2) In Schedule 56 to FA 2009 (penalties), in the Table at the end of paragraph 1, in entry 6ZA, in the third column, for “an exit charge payment plan” substitute “a CT exit charge payment plan”.

Commencement

- 7 The amendments made by paragraphs 1 and 2 have effect in relation to amounts of capital gains tax which a person is liable to pay by virtue of

section 25(1) or (3) or 80 of TCGA 1992 in relation to events occurring on or after 6 April 2019.

SCHEDULE 16

Section 37

ATAD: CORPORATION TAX EXIT CHARGES

PART 1

CT EXIT CHARGE PAYMENT PLANS

- 1 Schedule 3ZB to TMA 1970 (CT exit charge payment plans) is amended as follows.
- 2 In paragraph 1 (circumstances in which plan may be entered into: company ceasing to be resident in UK) –
 - (a) in subparagraph (1)(b) for “another” substitute “a relevant”,
 - (b) in subparagraph (5) for “an” substitute “a relevant”,
 - (c) in subparagraph (6) for “other” substitute “relevant”, and
 - (d) in subparagraph (7) at the end insert “;
“relevant EEA state” means an EEA state that is –
 - (a) a member of the European Union, or
 - (b) a party to an agreement with the United Kingdom that provides for mutual assistance equivalent to that provided for by Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes.”
- 3 (1) Paragraph 4 (circumstances in which plan may be entered into: non-UK resident companies with UK permanent establishments) is amended as follows.
 - (2) In subparagraph (4) (meaning of “PE qualifying event”) –
 - (a) omit “and” at the end of paragraph (b), and
 - (b) after paragraph (c) insert “, and
 - (d) immediately after the event –
 - (i) the asset or liability is held or owed by the company for the purposes of a permanent establishment of the company in a relevant EEA state, or
 - (ii) the asset or liability is held or owed by the company otherwise than for the purposes of a permanent establishment of the company and the company is resident in a relevant EEA state.”
 - (3) In subparagraph (6) –
 - (a) for “and” substitute “,”, and
 - (b) after ““eligible company”” insert “and “relevant EEA state””.
- 4 In paragraph 8(1) (entering into a plan) –

- (a) in paragraph (a) for the words from “the standard” to the end substitute “paragraphs 11 to 14”, and
 - (b) in paragraph (c) for “paragraphs 10 to 12” substitute “paragraph 10”.
- 5 (1) Paragraph 10 (contents of plan) is amended as follows.
- (2) In subparagraph (1)(b) before “EEA state” insert “relevant”.
- (3) After subparagraph (2) insert –
- “(2A) In either case a CT exit charge payment plan entered into by a company must specify requirements as to the ongoing provision of information by the company to Her Majesty’s Revenue and Customs in relation to the exit charge assets and liabilities.”
- (4) In subparagraph (3) for paragraph (c) substitute –
- “(c) the amount of ECPP tax attributable to each exit charge asset or liability.”
- (5) Omit subparagraphs (4) and (5).
- 6 For paragraphs 11 to 17, and the italic heading before those paragraphs, substitute –

“The payment method

- 11 (1) Where a CT exit charge payment plan is entered into the ECPP tax is due in 6 instalments of equal amounts as follows –
- (a) the first instalment is due on the first day after the period of 9 months beginning immediately after the end of the migration accounting period, and
 - (b) the other 5 instalments are due one on each of the first 5 anniversaries of that day.
- (2) But see paragraphs 12, 13 and 14 for circumstances in which all or part of the outstanding balance of the ECPP tax becomes due otherwise than by those instalments.

All of outstanding balance due

- 12 (1) Where an event mentioned in subparagraph (2) occurs, the outstanding balance of the ECPP tax is due on the date on which the next instalment of that tax would otherwise have been due.
- (2) The events are –
- (a) the company becoming insolvent or entering administration,
 - (b) the appointment of a liquidator,
 - (c) an event under the law of a country or territory outside the United Kingdom corresponding to an event specified in paragraph (a) or (b),
 - (d) the company ceasing to be resident in a relevant EEA state and, on so ceasing, not becoming resident in another relevant EEA state, or
 - (e) the company failing to pay any amount of the ECPP tax for a period of 12 months after the date on which the amount becomes due.

All of outstanding balance attributable to particular exit charge asset or liability due

- 13 (1) This paragraph applies where –
- (a) a trigger event occurs in relation to an exit charge asset or liability during the instalments period, and
 - (b) a trigger event has not previously occurred in relation to that asset or liability during that period.
- (2) A trigger event occurs in relation to a TCGA or trading stock exit charge asset or an intangible exit charge asset if the company –
- (a) disposes of the asset, or
 - (b) ceases to hold the asset for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to hold it for the purposes of another such business.
- (3) A trigger event occurs in relation to a financial exit charge asset or liability if the company –
- (a) ceases to be a party to the loan relationship or derivative contract in question, or
 - (b) ceases to be a party to the loan relationship or derivative contract in question for the purposes of a business carried on by the company in a relevant EEA state and, on so ceasing, does not begin to be a party to it for the purposes of another such business.
- (4) On the occurrence of the trigger event an amount of the ECPP tax is due.
- (5) The amount due is –

$$(A - B) \times \frac{O}{T}$$

Where –

- “A” is the amount of ECPP tax attributable to the exit charge asset or liability (see paragraph 10(6)),
 - “B” is the amount of ECPP tax that has previously become due under paragraph 14 by reason of a partial trigger event occurring in relation to the exit charge asset or liability,
 - “O” is the amount of ECPP tax that is outstanding at the time of the trigger event, and
 - “T” is the amount of ECPP tax.
- (6) In this paragraph and paragraph 14 “the instalments period” means the period –
- (a) beginning immediately after –
 - (i) the company ceases to be resident in the United Kingdom (in the case of a Part 1 company), or
 - (ii) the occurrence of the PE qualifying event in respects of the asset or liability concerned (in the case of a Part 2 company), and
 - (b) ending with the day on which the final instalment of the ECPP tax is due under paragraph 11.

Part of outstanding balance attributable to particular exit charge asset or liability due

- 14 (1) This paragraph applies if—
- (a) a partial trigger event occurs in relation to an exit charge asset or liability during the instalments period, and
 - (b) a trigger event has not previously occurred in relation to that asset or liability during that period.
- (2) A partial trigger event occurs in relation to a TCGA or trading stock exit charge asset if the company disposes of part (but not all) of the asset.
 Section 21(2)(b) of TCGA 1992 (meaning of part disposal of an asset) applies for the purposes of this subparagraph as it applies for the purposes of that Act.
- (3) A partial trigger event occurs in relation to a financial exit charge asset or liability if there is a disposal of a right or liability under the loan relationship or derivative contract in question which amounts to a related transaction (as defined in section 304 or 596 of CTA 2009 as the case may be).
- (4) A partial trigger event occurs in relation to an intangible exit charge asset if there is a transaction which results in a reduction in the accounting value of the asset but not in the asset ceasing to be recognised in the company’s balance sheet.
- (5) On the occurrence of the partial trigger event an amount of the outstanding ECPP tax is due.
- (6) The amount due is the amount that is just and reasonable having regard to the amount that would have been due had a trigger event occurred in relation to the exit charge asset or liability instead.
- (7) In this paragraph “trigger event” has the same meaning as in paragraph 13.”
- 7 In Schedule 56 to FA 2009 (penalty for failure to make payments on time) in paragraph 4 (amount of penalty in respect of certain late payments) in subparagraph (1) for “item 5, 6 or 6ZZA” substitute “any of items 5 to 6ZA”.
- 8 The amendments made by paragraphs 1 to 6 have effect in relation to accounting periods ending on or after 1 January 2020.

PART 2

REPEAL OF CERTAIN POSTPONEMENT PROVISIONS

- 9 (1) Section 187 of TCGA 1992 (postponement of charge on deemed disposal under section 185) is repealed.
- (2) The following amendments have effect in consequence of that repeal.
- (3) In section 185(1) of TCGA 1992 (deemed disposal of assets on company ceasing to be resident in UK) for “and section 187 apply” substitute “applies”.
- (4) In Schedule 3ZB to TMA 1970 (CT exit charge payment plans) –

- (a) in paragraph 2(3) (meaning of “exit charge provisions” in Part 1) omit paragraph (b), and
 - (b) in paragraph 3 (interpretation: exit charge assets and liabilities) –
 - (i) in subparagraph (2)(a) omit “, (b)”, and
 - (ii) in subparagraph (2)(c)(ii) omit “or (b)”.
- (5) The amendments made by this paragraph have effect in relation to a company in a case where section 185 of TCGA 1992 applies to the company by reason of its ceasing to be resident in the United Kingdom on or after 1 January 2020.
- 10 (1) Sections 860 to 862 of CTA 2009 (postponement of gain on deemed realisation under section 859) are repealed.
- (2) The following amendments have effect in consequence of that repeal.
- (3) In section 859 of CTA 2009 (asset ceasing to be chargeable intangible asset: deemed realisation at market value) omit subsection (3).
- (4) In Schedule 3ZB to TMA 1970 (CT exit charge payment plans) –
- (a) in paragraph 2(3) (meaning of “exit charge provisions” in Part 1) –
 - (i) at the end of paragraph (e) insert “and”, and
 - (ii) omit paragraph (g) and the “and” immediately before it, and
 - (b) in paragraph 3 (interpretation: exit charge assets and liabilities) in subparagraph (2)(c)(i) omit “or (g)”.
- (5) The amendments made by this paragraph have effect in relation to a company in a case where section 859 of CTA 2009 applies to the company by reason of its ceasing to be resident in the United Kingdom on or after 1 January 2020.

PART 3

TREATMENT OF ASSETS SUBJECT TO EU EXIT CHARGES

- 11 (1) After section 184I of TCGA 1992 insert –

“Assets subject to EU exit charges

184J Asset subject to EU exit charge on becoming chargeable asset

- (1) This section applies if –
- (a) an asset becomes a chargeable asset in relation to a company by reason of an event specified in subsection (2), and
 - (b) on the occurrence of that event the company becomes subject to an EU exit charge in relation to the asset.
- (2) The events are –
- (a) the company becoming resident in the United Kingdom, and
 - (b) in the case of a company that is not resident in the United Kingdom, the asset beginning to be held for the purposes of a trade carried on by the company in the United Kingdom through a permanent establishment.

- (3) The company is to be treated for the purposes of this Act as if it had acquired the asset for its market value at the time it became a chargeable asset in relation to the company.
 - (4) For the purposes of this section an asset is a “chargeable asset” in relation to a company at any time if any gain on its disposal by the company at that time would be chargeable to corporation tax.
 - (5) “EU exit charge” means a charge to tax under the law of a member State in accordance with Article 5(1) of Directive (EU) 2016/1164 of the European Parliament and of the Council of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.”
- (2) The amendment made by this paragraph has effect in relation to assets that become chargeable assets on or after 1 January 2020.
- 12 (1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.
- (2) In section 863 (asset becoming chargeable intangible asset) after subsection (2) insert –
- “(3) But subsection (2)(b) is subject to section 863A.”
- (3) After section 863 insert –
- “863A Asset becoming chargeable intangible asset: EU exit charge**
- (1) This section applies if –
 - (a) an asset becomes a chargeable intangible asset in relation to a company by reason of an event specified in section 863(1)(a) or (b), and
 - (b) on the occurrence of that event the company becomes subject to an EU exit charge in respect of the asset.
 - (2) This Part applies as if the company had acquired the asset for its market value at the time it became a chargeable intangible asset in relation to the company.
 - (3) “EU exit charge” means a charge to tax under the law of a member State in accordance with Article 5(1) of Directive (EU) 2016/1164 of the European Parliament and of the Council of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market.”
- (4) The amendments made by this paragraph have effect in relation to assets that become chargeable intangible assets on or after 1 January 2020.