

X Public interest business protection tax

- (1) Schedule X makes provision about a tax charged in circumstances where a business for which there is a special administration regime becomes subject to special administration or to other special measures in connection with insolvency.
- (2) In this section “special administration”, “special administration regime” and “special measures” have the meanings given by paragraph 2 of that Schedule.

SCHEDULE X

PUBLIC INTEREST BUSINESS PROTECTION TAX

PART 1

CHARGE

Charge on value of assets held for qualifying purposes

- 1 (1) Where—
 - (a) a person (“P”) takes disqualifying steps in relation to an asset in disqualifying circumstances, and
 - (b) the £100 million threshold condition is met in relation to the person (whether before, at the same time as or after those steps were taken),P is liable to pay a tax equal to 75% of the asset’s adjusted value (see paragraph 3).
- (2) The tax is to be known as public interest business protection tax and the Commissioners for Her Majesty’s Revenue and Customs are responsible for its collection and management.
- (3) P takes disqualifying steps in relation to an asset in disqualifying circumstances if—
 - (a) it is reasonable to conclude that the asset was held by P wholly or partly for the purposes of it being used or being available for use for the benefit of a public interest business carried on by P or by a person connected to P,
 - (b) steps are taken by P, or by P together with others, that result in the asset not being used to some extent, or being no longer available for use to some extent, for the benefit of the business,
 - (c) the business becomes subject to special measures (whether before, at the same time as, or after those steps were taken),
 - (d) the taking of those steps materially contributes to—
 - (i) the business becoming subject to special measures, or
 - (ii) a significant increase in the costs of carrying on the business, and
 - (e) P was aware, or ought reasonably to have been aware, that the asset not being used, or being available for use, by the business would have the effect mentioned in paragraph (d)(i) or (ii).
- (4) In this Schedule—
 - (a) “qualifying purposes” means the purposes described in sub-paragraph (3)(a), and
 - (b) “disqualifying steps” means steps described in sub-paragraph (3)(b), and steps may fall within that description whether or not—
 - (i) P or any other person receives any consideration in connection with, or otherwise in consequence of, the taking of the steps, or
 - (ii) P directly participates in all of the steps.
- (5) Disqualifying steps include (for example)—
 - (a) one or more steps that result in the disposal of the asset where some or all of the proceeds of that disposal are (to any extent) not applied

- for the benefit of the public interest business (including where some of those proceeds are so applied for a time, but subsequently cease to be);
- (b) one or more steps that result in the public interest business being deprived in substance of the benefit of the asset to some extent (including where the benefit of the asset is provided to the business at a greater cost to the business than would have reasonably been expected);
 - (c) one or more steps that facilitate a person benefiting from the asset or its disposal to the detriment of the public interest business;
 - (d) entering into arrangements which result in the asset no longer being held, or which result in it being held to a lesser extent, for qualifying purposes in relation to the public interest business (including arrangements that include transactions to which the person is not party);
 - (e) directing, encouraging or causing another person to do something which results in the asset no longer being held, or which result in it being held to a lesser extent, for qualifying purposes in relation to the public interest business.
- (6) Steps taken in contemplation of the taking of disqualifying steps (which might include steps taken in relation to the residence of P) are to be treated as disqualifying steps.
- (7) Where the taking of a disqualifying step was delayed by the action of a public authority, that step is to be treated as having been taken at the time at which it would, but for that action, have been taken.
- (8) In determining, for the purposes of sub-paragraph (3)(d)(ii) whether there has been an increase in the costs of carrying on the public interest business –
- (a) those costs are to be taken to include the costs of any person who, as a result of the special measures, takes over (in substance) the carrying on of any of the activities comprised in the carrying on of the business (such as the costs of a person to whom the customers of the business are transferred), and
 - (b) whether costs have increased is to be determined by reference to what the costs of carrying on the activities comprised in the carrying on of the business would have been –
 - (i) had those activities all been carried on by the business, and
 - (ii) had the asset been available for use (including its being used to avoid or offset a cost) in connection with the carrying on of those activities on the same basis it had been available before the taking of the first disqualifying step.
- (9) The £100 million threshold condition is met in relation to P if the combined underlying value (as determined in accordance with paragraph 3(2) and (3)) of all assets in respect of which disqualifying steps were taken in disqualifying circumstances by P and by any person who is connected to P exceeds £100 million.
- (10) In this Schedule –
- “asset” includes a part of an asset;
 - “disposal” includes anything which would be a disposal for the purposes of TCGA 1992.

Meaning of “public interest business” and “special measures”

- 2 (1) For the purposes of this Schedule, a business is a “public interest business” if it is –
- (a) an energy supply business, or
 - (b) a business of a description specified in regulations made by the Treasury.
- (2) Regulations may only specify a description of business if a special administration regime exists for persons carrying on businesses of that description.
- (3) For the purposes of this Schedule a business is subject to special measures if –
- (a) the person carrying on the business enters special administration,
 - (b) it is subject to arrangements, imposed in connection with the insolvency of the person carrying it on by or under an enactment (including by virtue of any licence required by or under an enactment), for the transfer of customers of the business to another business, or
 - (c) such other circumstances relating to insolvency as may be specified in regulations made by the Treasury exist in relation to the business or the person carrying it on.
- (4) In this paragraph –
- “energy supply business” means the business of making supplies required to be authorised under –
- (a) a licence granted under section 7A(1) of the Gas Act 1986 (gas supply licences), or
 - (b) a licence granted under section 6(1)(d) of the Electricity Act 1989 (electricity supply licences);
- “special administration” means an insolvency procedure –
- (a) that is similar or corresponds to ordinary administration, and
 - (b) under which the administrator has one or more special objectives instead of or in addition to the objectives of ordinary administration;
- “special administration regime” means provision made by an enactment that provides for special administration;
- “ordinary administration” means the insolvency procedure provided for by –
- (a) Schedule B1 to the Insolvency Act 1986, or
 - (b) Schedule B1 to the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Adjusted value of assets

- 3 (1) To determine the adjusted value of an asset, take the following steps –

Step 1 - value the asset

Determine the underlying value of the asset.

Step 2 - apply reduction to reflect potential losses as a result of taking steps

Deduct an amount equal to 10% of the underlying value from that value.

- (2) The underlying value of the asset is the greater of—
 - (a) the fair value of the asset immediately before the first disqualifying step was taken in relation to it, and
 - (b) the amount or value of any consideration paid directly or indirectly in connection with, or otherwise in consequence of, the taking of the disqualifying steps (whether paid to the person taking them or to any other person).
- (3) Where it is reasonable to conclude that an asset was held partly for qualifying purposes in relation to the public interest business in question and partly for other purposes, reduce the underlying value so that it reflects the proportion of the asset that can be attributed (on a just and reasonable basis) to its being held for qualifying purposes in relation to the business.

PART 2

JOINT AND SEVERAL LIABILITY

Liability of associated companies

- 4 (1) This paragraph applies to any company, other than a company that is subject to special measures, that was associated, at any point during the disqualifying period, with a company (“the principal taxpayer”) that is liable to public interest business protection tax as a result of paragraph 1.
- (2) A company is associated with another if—
 - (a) one of the two has control of the other, or
 - (b) both are under the control of the same person or persons.
- (3) A company to which this paragraph applies is, together with the principal taxpayer, jointly and severally liable to public interest business protection tax.
- (4) In this Schedule the “disqualifying period” means the period commencing with the day on which the first disqualifying step was taken and ending with the last day of the period in which the principal taxpayer must make a return under paragraph 8(1).

Joint and several liability of connected persons and others who may benefit

- 5 (1) This paragraph applies to a person (“R”) and any person connected to R if—
 - (a) R or a person connected to R receives the proceeds (whether directly or indirectly) of any consideration paid directly or indirectly in connection with, or otherwise in consequence of, the taking of disqualifying steps by a person liable to public interest business protection tax as a result of paragraph 1 (“the principal taxpayer”), and
 - (b) the sum of amounts received by R and persons connected to R is equal to or exceeds 5% of the adjusted value of the asset.
- (2) This paragraph also applies to a person (“S”) and any person connected to S if—
 - (a) S or a person connected to S had a qualifying interest in a company, partnership or unincorporated association liable to public interest business protection tax as a result of paragraph 1 (“the principal taxpayer”) during the disqualifying period, and

- (b) the sum of qualifying interests S and persons connected to S had in the principal taxpayer during that period was equal to or exceeded 5% (see paragraph 6(1) which defines “qualifying interest” as a proportion).
- (3) This paragraph does not apply to a person if the person is liable to tax as a result of paragraph 4 in relation to the same asset.
- (4) A person to whom this paragraph applies is, together with the principal taxpayer, jointly and severally liable to public interest business protection tax.
- (5) But the liability of a person liable to tax as a result of this paragraph is limited to—
 - (a) in the case of a person to whom this paragraph applies only as a result of sub-paragraph (1), the amount equal to the sum of the proceeds of consideration received (directly or indirectly) by R and persons connected to R,
 - (b) in the case of a person to whom this paragraph applies only as a result of sub-paragraph (2), the amount equal to the proportion of the principal taxpayer’s liability that is the same as the sum of qualifying interests S and persons connected to S had during the disqualifying period, and
 - (c) in the case of a person to whom this paragraph applies as a result of both sub-paragraphs (1) and (2), the greater of the amounts described in paragraphs (a) and (b).
- (6) References in this paragraph to the receipt of the proceeds of consideration do not include the receipt of any amount pursuant to a loan if—
 - (a) the parties to that loan are not connected,
 - (b) the creditor carries on a business of lending money,
 - (c) the loan was made by the creditor in the ordinary course of that business, and
 - (d) the terms of the loan were agreed between parties dealing at arm’s length.

Qualifying interests in company, partnership or unincorporated association

- 6 (1) A person (“the qualifying person”) had a qualifying interest in a company, partnership or unincorporated association liable to tax (“the taxed entity”) during the disqualifying period if at any point during the period—
 - (a) the qualifying person was beneficially entitled to a proportion of the profits available for distribution to equity holders of the taxed entity, or
 - (b) the qualifying person was beneficially entitled to a proportion of the assets of the taxed entity for distribution to its equity holders on a winding up,and the qualifying interest of the person is, for the purposes of paragraph 5(2)(b) and (5)(b), to be treated as the greatest of the proportions that applied at any point during the period.
- (2) Chapter 6 of Part 5 of CTA 2010 applies for the purposes of determining the proportions of profits or assets of the taxed entity that the qualifying person is beneficially entitled to as it applies for the purposes of determining the

proportions of profits or assets of a company that another company is beneficially entitled to (see, in particular, sections 165 and 166 of that Act).

- (3) That Chapter has effect for the purposes of sub-paragraph (1) as if—
- (a) in sections 170(3) and 172(3) (shares or securities with limited or temporary rights), for “less than” there were substituted “more than”,
 - (b) in section 174 (option arrangements)—
 - (i) in subsection (1), in Step 4, for “lowest proportion” there were substituted “highest proportion”, and
 - (ii) in subsection (2), for “less than” there were substituted “more than”,
 - (c) in sections 175(3), 176(3), 177(3) and 178(3) (cases in which more than one of sections 170, 172, and 174 apply), for “lowest proportion” there were substituted “highest proportion”, and
 - (d) sections 179 to 182 were omitted.
- (4) That Chapter is to be read, for those purposes, with all modifications necessary to ensure that—
- (a) it applies to a company which does not have share capital or to a partnership or unincorporated association, and to holders of corresponding ordinary holdings in such a company, partnership or unincorporated association, in a way which corresponds to the way they apply to companies with ordinary share capital and holders of ordinary shares in such companies,
 - (b) it applies in relation to ownership through any trust or other arrangement, in a way which corresponds to the way it applies to ownership through a company, and
 - (c) for the purposes of achieving paragraphs (a) and (b), profits or assets are attributed to holders of corresponding ordinary holdings in partnerships, unincorporated associations, trusts or other arrangements in a manner which corresponds to the way profits or assets are attributed to holders of ordinary shares in a company which is a body corporate.
- (5) In this paragraph “corresponding ordinary holding” means a holding or interest which provides the holder with economic rights corresponding to those provided by a holding of ordinary shares.

Claim for relief

- 7 (1) This paragraph applies to a person who is liable to tax as a result of paragraph 5 if the person can demonstrate that the potential benefit to the person in connection with the taking of disqualifying steps is less than the amount to which the person would otherwise be liable to tax.
- (2) References in this paragraph to the potential benefit to the person are to the maximum amount or value by which the person has or could have benefitted, or could benefit, in connection with the taking of those steps, which may (for example) include by—
- (a) receiving, or being entitled (whether absolutely or conditionally) to receive, any amount in connection with the taking of the steps;
 - (b) being entitled (whether absolutely or conditionally) to any assets, or distribution out of assets, whose value is affected by the taking of the steps;

- (c) being a person in respect of whom a power or other discretion may be exercised resulting in the receipt of any such amount, assets or distribution;
 - (d) disposing of, or being able to dispose of, any such assets.
- (3) A person to whom this paragraph applies may make a claim to an officer of Revenue and Customs for relief by way of a reduction of the amount to which the person is liable to secure that the amount does not exceed the potential benefit to the person.
- (4) No account is to be taken in a claim under this paragraph of –
 - (a) any amount of costs that may be incurred in connection with the realisation of a potential benefit unless that amount has been paid before making the claim, or
 - (b) any losses associated with the taking of the disqualifying steps (as the underlying tax has already been reduced as a result of the application of step 2 in paragraph 3(1)).
- (5) An officer of Revenue and Customs to whom a claim is made under this paragraph must determine the claim and make so much (if any) of the reduction claimed as the officer considers is just and reasonable.
- (6) A reduction may be made by way of an assessment or the modification of an assessment, or otherwise.
- (7) The officer must notify their determination of the claim to the person making it.
- (8) A person who has made a claim under this paragraph that has not been determined by an officer of Revenue and Customs may apply to the tribunal for a direction requiring an officer of Revenue and Customs to make that determination within a specified period.
- (9) Any such application is subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).
- (10) The tribunal must give the direction applied for unless satisfied that there are reasonable grounds for not determining the claim within a specified period.

PART 3

ADMINISTRATION

Requirement to file return and pay tax chargeable under paragraph 1

- 8 (1) A person liable to tax as a result of paragraph 1 must make and deliver a return to an officer of Revenue and Customs before the end of the period of 30 days beginning with later of –
 - (a) the day on which the person became liable,
 - (b) the day on which the public interest business to which the tax relates entered special measures,
 - (c) the day on which the £100 million threshold condition is met (see paragraph 1(9)), and
 - (d) the day on which this Act is passed.

- (2) References in this Schedule to the day on which a person became liable to tax as a result of paragraph 1 (however framed) are to the date on which the first of the disqualifying steps to which the tax relates was taken.
- (3) A return under this paragraph must contain—
 - (a) such information, accounts, statements and documents as are relevant to the person's liability to tax, and
 - (b) an assessment of the amount (a "self-assessment"), on the basis of the information contained in the return, the person is liable to pay.
- (4) The Commissioners for Her Majesty's Revenue and Customs may by notice, published by the Commissioners in such manner as they consider appropriate, specify descriptions of information, accounts and documents that are relevant to a person's liability to tax (and which accordingly must be contained in a return).
- (5) A self-assessment may not be made and delivered under this paragraph after the end of the period of 4 years beginning with the day on which the person became liable to tax.
- (6) Where a return is made under this paragraph, the amount assessed is payable on the day after the end of the period of 15 days beginning with the day after the end of the period referred to in sub-paragraph (1).

Notice to file return in respect of joint and several liability under paragraph 4 or 5

- 9 (1) An officer of Revenue and Customs may by notice require a person liable to public interest business protection tax as a result of paragraph 4 or 5—
 - (a) to make and deliver to the officer a return containing such information as may reasonably be required in pursuance of the notice, and
 - (b) to deliver with the return such accounts, statements and documents, relating to information contained in the return as may reasonably be so required.
- (2) A notice may only be given to a person under this paragraph if the officer considers that there is a risk that the full amount of tax due from the principal taxpayer (see paragraphs 4 and 5) will not be recovered from the principal taxpayer.
- (3) A notice under this paragraph must state the amount the officer determines is the liability of the principal taxpayer.
- (4) A return required as a result of a notice given under this paragraph must contain an assessment of the amount (a "self-assessment"), on the basis of the information contained in the return and the amount stated in the notice in accordance with sub-paragraph (3), the person is liable to pay.
- (5) A return required as a result of a notice given under this paragraph must be made and delivered before the end of the period of 30 days beginning with the day on which the notice was given.
- (6) A person who has paid an amount of tax under or in pursuance of a notice under this paragraph may recover that amount from the principal taxpayer.
- (7) Where a return is made under this paragraph, the amount assessed is payable on the day after the end of the period of 45 days beginning with the day on which the notice to which it relates was given.

Time limits in relation to assessment under paragraph 9

- 10 (1) A notice under paragraph 9(1) may not be given after the end of the period of 3 years beginning with the latest date provided for by whichever of sub-paragraphs (2), (3) and (4) apply.
- (2) Where the liability of the principal taxpayer is determined under paragraph 12(1) (HMRC to determine tax where no return made in time), the date provided for by this sub-paragraph is the date on which the determination was made.
- (3) Where a return has been made by the principal taxpayer, including where the return supersedes a determination under paragraph 12(1), the date provided for by this sub-paragraph is the latest of –
- (a) the last date on which notice of enquiry (see paragraph 13) may be given in relation to the return,
 - (b) if a notice of enquiry is given, 30 days after the closure notice is issued,
 - (c) if an appeal is brought against any conclusion stated or amendment made by the closure notice, 30 days after the appeal is finally determined.
- (4) Where a discovery assessment (see paragraph 18) is made in relation to the liability of the principal taxpayer, the date provided for by this sub-paragraph is –
- (a) where there is no appeal against the assessment, the date when the tax becomes due and payable, and
 - (b) where there is such an appeal, the date on which the appeal is finally determined.
- (5) A self-assessment may not be made and delivered under paragraph 9 after the later of the end of the period of –
- (a) 3 years beginning with the latest date provided for by whichever of sub-paragraphs (2), (3) or (4) applies, and
 - (b) 3 months beginning with the day on which the notice was given.

Amendments and corrections of return

- 11 (1) A person who makes a return under paragraph 8 or 9 may amend that return by notice to an officer of Revenue and Customs.
- (2) An amendment under sub-paragraph (1) may not be made more than twelve months after the end of the period in which the return must be delivered (see paragraphs 8(1) and 9(5)).
- (3) An officer of Revenue and Customs may amend a return under paragraph 8 or 9 so as to correct –
- (a) obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise), and
 - (b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer.
- (4) A correction under sub-paragraph (3) is made by notice to the person whose return it is.
- (5) No such correction may be made more than nine months after –

- (a) the day on which the return was delivered, or
 - (b) if the correction is required in consequence of an amendment of the return under sub-paragraph (1), the day on which that amendment was made.
- (6) A correction under sub-paragraph (3) is of no effect if the person whose return it is gives notice rejecting the correction.
- (7) A notice under sub-paragraph (6) must be given –
- (a) to the officer who gave the notice under sub-paragraph (4), and
 - (b) before the end of the period of 30 days beginning with the day on which the notice under sub-paragraph (4) was issued.

HMRC to determine tax where no return made in time

- 12 (1) Where a person required to make a return as a result of paragraph 8 or 9 has not delivered that return, an officer of Revenue and Customs may determine to the best of the officer's information and belief the amount of tax payable by the person.
- (2) The power to make a determination under this paragraph becomes exercisable if no return is delivered before the end of the period in which the return must be delivered.
- (3) The officer must give notice of a determination under this paragraph to the person, and that notice must state the date on which the determination is issued.
- (4) A determination under this paragraph is to have effect as if it were a self-assessment contained in a return under (as the case may be) paragraph 8 or 9.
- (5) But if a return is subsequently made containing a self-assessment of the tax, that determination is superseded by the self-assessment provided that return is made and delivered –
- (a) no more than 12 months after the date of the determination, and
 - (b) no later than the end of the period within which a self-assessment may be made as a result of paragraph 8(5) or 10(5) (as the case may be).
- (6) Where –
- (a) proceedings have been commenced for the recovery of any tax charged by a determination under this paragraph, and
 - (b) before those proceedings are concluded, the determination is superseded by an assessment as a result of sub-paragraph (5),
- those proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.
- (7) No determination under this paragraph may be made after –
- (a) in the case of a determination in relation to a person required to make a return under paragraph 8, the end of the period of 4 years beginning with the day on which the person became liable to tax, or
 - (b) in the case of a determination in relation to a person required to make a return under paragraph 9, the end of the period referred to in paragraph 10(1).

- (8) Where a determination is made under this paragraph, the amount determined is payable on the day after the end of the 14 day period beginning with the day on which an officer of Revenue and Customs notifies the person of the determination.

Enquiry into return

- 13 (1) An officer of Revenue and Customs may enquire into a return under paragraph 8 or 9 if the officer gives notice that the officer intends to do so (a “notice of enquiry”) to the person whose return it is (“the taxpayer”).
- (2) The normal rule is that a notice of enquiry may only be given up to the end of the period of twelve months after the day on which the return was delivered.
- (3) But if the taxpayer has amended the return under paragraph 11(1), a notice of enquiry may be given up to the end of the period of twelve months after the amendment was made.
- (4) A return which has been the subject of one notice of enquiry may not be the subject of another.
- (5) An enquiry extends to anything contained in the return, or required to be contained in the return, subject to the following limitations.
- (6) Where a notice of enquiry is given as a result of an amendment of the return under paragraph 11(1) and that notice is given—
- (a) after the end of the period referred to in sub-paragraph (2), or
 - (b) after a closure notice has been issued in relation to an enquiry into the return,
- the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.

Completion of enquiry

- 14 (1) The enquiry is completed when an officer of Revenue and Customs informs the taxpayer by notice (“a closure notice”) that the officer’s enquiries have been completed.
- (2) A closure notice must state the officer’s conclusions and—
- (a) state that in the officer’s opinion no amendment of the return is required, or
 - (b) make the amendments of the return required to give effect to the officer’s conclusions.
- (3) A closure notice takes effect when it is issued.
- (4) The taxpayer may apply to the tribunal for a direction requiring an officer of the Board to issue a closure notice within a specified period.
- (5) Any such application is subject to the relevant provisions of Part 5 of TMA 1970 (see, in particular, section 48(2)(b) of that Act).
- (6) The tribunal must give the direction applied for unless satisfied that there are reasonable grounds for not issuing the closure notice within a specified period.

Amendment of return by taxpayer during enquiry

- 15 (1) This paragraph applies if a return is amended under paragraph 11(1) at a time when an enquiry into the return is in progress in relation to any matter to which the amendment relates or which is affected by the amendment.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects the amount stated in the self-assessment included in the return as the amount of tax payable, it does not take effect while the enquiry is in progress in relation to any matter to which the amendment relates or which is affected by the amendment.
- (4) If an officer of Revenue and Customs states in a closure notice that the officer has taken account of the amendment and that—
- (a) the amendment has been taken into account in formulating the amendments contained in the notice, or
 - (b) the officer has concluded that the amendment is incorrect,
- the amendment does not take effect.
- (5) Otherwise, the amendment takes effect when a closure notice is issued.
- (6) For the purposes of this paragraph and paragraph 16, the period during which an enquiry is in progress in relation to any matter is the whole of the period—
- (a) beginning with the day on which notice of enquiry is given, and
 - (b) ending with the day on which a closure notice is issued.

Amendment of return during enquiry by HMRC to prevent loss of tax

- 16 (1) This paragraph applies where an enquiry into a return is in progress in relation to any matter.
- (2) If the officer forms the opinion—
- (a) that the amount stated in the self-assessment contained in the return as the amount of tax payable is insufficient, and
 - (b) that unless the self-assessment is immediately amended there is likely to be a loss of tax to the Crown,
- the officer may by notice to the taxpayer amend the self-assessment to make good the deficiency so far as it relates to the matter.
- (3) In the case of an enquiry which, as a result of paragraph 13(6), is limited to matters arising from an amendment of the return, sub-paragraph (2) only applies so far as the deficiency is attributable to the amendment.

Date by which payment to be made after amendment or correction of self-assessment

- 17 Paragraphs 2 to 5 of Schedule 3ZA to TMA 1970 apply for the purpose of determining when an amount of tax is payable or repayable as a result of an amendment or correction of a self-assessment under this Schedule as if—
- (a) the reference in paragraph 2(1) of that Schedule to section 9ZA of that Act were to paragraph 11(1) of this Schedule,
 - (b) in paragraph 2(3) of that Schedule—
 - (i) the reference to section 9B(3) of that Act were to paragraph 15(3) of this Schedule,

- (ii) the reference to section 9B(3)(a)(i) of that Act were to paragraph 15(4)(a) of this Schedule, and
- (iii) the reference to section 9B(3)(b) of that Act were to paragraph 15(5) of this Schedule,
- (c) in paragraph 2(4) of that Schedule –
 - (i) in paragraph (a), for “partial or final closure notice” there were substituted “closure notice”, and
 - (ii) for paragraph (b) there were substituted –
 - “(b) in the case of an amount that is repayable, the day on which the closure notice relating to the enquiry was given.”,
- (d) the reference in paragraph 3(1) of that Schedule to section 9ZB of that Act were to paragraph 11(3) of this Schedule,
- (e) the reference in paragraph 4(1) of that Schedule to section 9C of that Act were to paragraph 16 of this Schedule, and
- (f) the reference in paragraph 5(1) of that Schedule to section 28A of that Act were to paragraph 14 of this Schedule.

Discovery assessment

- 18 (1) If an officer of Revenue and Customs discovers –
- (a) that a person who ought to have been assessed to tax has not been assessed to tax,
 - (b) that an assessment to tax is or has become insufficient, or
 - (c) that any relief from tax which has been given is or has become excessive,
- the officer may make an assessment (a “discovery assessment”) in the amount, or the further amount, which ought in the officer’s opinion to be charged in order to make good to the Crown the loss of tax.
- (2) Where a person has made and delivered a return under paragraph 8 or 9 a discovery assessment may not be made in respect of the tax to which the return relates unless condition A or B is met.
- (3) Condition A is that the situation mentioned in sub-paragraph (1) was brought about carelessly or deliberately by the person or a person acting on that person’s behalf.
- (4) Condition B is that at the time when an officer of Revenue and Customs –
- (a) ceased to be entitled to give a notice of enquiry to the person, or
 - (b) in a case where a notice of enquiry was given in relation to the return, issued a closure notice,
- 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 of the situation mentioned in sub-paragraph (1).
- (5) For the purposes of sub-paragraph (4), information is made available to an officer of Revenue and Customs if –
- (a) it is contained in the person’s return under paragraph 8 or 9, or in any accounts, statements or documents accompanying the return;
 - (b) it is contained in any claim made under this Schedule by the person, or in any accounts, statements or documents accompanying any such claim;

- (c) it is contained in any documents, accounts or particulars which, for the purposes of any enquiries into the return or any such claim by an officer of Revenue and Customs, are produced or furnished by the person to the officer;
 - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in sub-paragraph (1) –
 - (i) could reasonably be expected to be inferred by an officer of Revenue and Customs from information falling within paragraphs (a) to (c), or
 - (ii) are notified in writing by the person to an officer of Revenue and Customs.
- (6) An objection to the making of an assessment under this paragraph on the ground that neither condition A nor B is fulfilled may only be made on an appeal against the assessment.
- (7) Where an amount of tax is assessed under this paragraph, that amount is payable on the day after the end of the 14 day period beginning with the day on which the notice of assessment is issued.

Assessment procedure

- 19 (1) Notice of an assessment to tax on a person must be served on the person stating –
- (a) the date on which the notice is issued, and
 - (b) the time within which any appeal against the assessment may be made.
- (2) After that notice has been served on the person, the assessment may not be altered except in accordance with any express provision of this Schedule or of any provision of the Taxes Acts that applies to public interest business protection tax.

Time limits for assessments

- 20 (1) The normal rule is that an assessment of a person to tax (other than a self-assessment) may be made at any time within the period of 4 years beginning with the day (“the relevant day”) after the end of the period in which the person was required to make and deliver a return.
- (2) But an assessment on a person in a case involving a loss of public interest business protection tax brought about carelessly by the person may be made at any time within the period of 6 years beginning with the relevant day.
- (3) And an assessment on a person in a case involving a loss of public interest business protection tax brought about deliberately by the person may be made at any time within the period of 20 years beginning with the relevant day.

Appeals

- 21 (1) An appeal may be brought against –
- (a) any amendment of a self-assessment under paragraph 16 (amendment by HMRC during enquiry to prevent loss of tax),
 - (b) any conclusion stated or amendment made by a closure notice, or

- (c) any assessment to tax which is not a self-assessment.
- (2) An appeal may also be brought against a determination by an officer of Revenue and Customs of a claim for a reduction under paragraph 7, but only on the ground that it was not open to the officer to consider the reduction determined by the officer (including a determination not to make any reduction) was just and reasonable.
- (3) Sections 47C to 57 of TMA 1970 (appeals) apply (subject to the other provisions of this Schedule) to an appeal under this paragraph as they apply to an appeal under the Taxes Acts.
- (4) But in the case of section 55 (recovery of tax not postponed), that section has effect as if—
- (a) in subsection (1) for paragraphs (a) and (aa) there were substituted—
 - “(a) an amendment of a self-assessment under paragraph 16 of Schedule X to the Finance Act 2022,
 - (aa) a conclusion stated or an amendment made by a closure notice,”
 - (b) after subsection (3) there were inserted—
 - “(3ZA) But the payment of any amount of public interest business protection tax is not to be postponed unless HMRC or the tribunal (as the case may be) determines that the circumstances of the appellant are exceptional such that it would not be just to refuse postponement of the payment of that amount.”, and
 - (c) in subsection (6), after “overcharged to tax” there were inserted “to the extent the postponement of the amount is not prevented by subsection (3ZA)”.
- (5) If an appeal under sub-paragraph (1)(a) against an amendment of a self-assessment is made while an enquiry is in progress in relation to any matter to which the amendment relates or which is affected by the amendment none of the steps mentioned in section 49A(2)(a) to (c) of TMA 1970 may be taken in relation to the appeal until a closure notice is issued.
- (6) Notice of an appeal must—
- (a) be given in writing;
 - (b) specify the grounds of appeal;
 - (c) be given within 30 days after the specified date to the relevant officer of Revenue and Customs.
- (7) In relation to an appeal under sub-paragraph (1)(a)—
- (a) the specified date is the date on which the notice of amendment was issued, and
 - (b) the relevant officer of Revenue and Customs is the officer by whom the notice of amendment was given.
- (8) In relation to an appeal under sub-paragraph (1)(b)—
- (a) the specified date is the date on which the closure notice was issued, and
 - (b) the relevant officer of Revenue and Customs is the officer by whom that notice was given.
- (9) In relation to an appeal under sub-paragraph (1)(c)—

- (a) the specified date is the date on which the notice of assessment was issued, and
 - (b) the relevant officer of Revenue and Customs is the officer by whom the notice of assessment was given.
- (10) In relation to an appeal under sub-paragraph (2) –
- (a) the specified date is the date on which the notice under paragraph 7(7) was issued, and
 - (b) the relevant officer of Revenue and Customs is the officer by whom that notice was given.

Duty to preserve records

- 22 (1) A person liable to tax must –
- (a) keep such records as may be needed to enable the person to deliver a correct and complete return in respect of the tax, and
 - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved until the end of the relevant day.
- (3) In this paragraph “relevant day” means–
- (a) in relation to a person liable to tax as a result of paragraph 1, the later of –
 - (i) the sixth anniversary of the day on which the person became liable to tax,
 - (ii) the day on which any enquiry into a return made and delivered by the person is completed, and
 - (iii) the day on which an officer of Revenue and Customs no longer has power to enquire into such a return,
 - (b) in relation to a person liable to tax as a result of paragraph 4 or 5, the later of –
 - (i) the sixth anniversary of the day on which the person was given a notice under paragraph 9(1),
 - (ii) the day on which an officer of Revenue and Customs no longer has power to give such a notice (see paragraph 10(1)),
 - (iii) the day on which any enquiry into a return made and delivered by the person is completed, and
 - (iv) the day on which an officer of Revenue and Customs no longer has power to enquire into such a return, and
 - (c) such earlier day as may be specified in writing by the Commissioners for Her Majesty’s Revenue and Customs (and different days may be specified for different cases).
- (4) The Commissioners for Her Majesty’s Revenue and Customs may by regulations –
- (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
 - (b) provide that those records include supporting documents (including accounts, books, deeds, contracts, vouchers and receipts) so specified.
- (5) Regulations under this paragraph may –
- (a) make different provision for different cases, and

- (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).
- (6) The duty under this paragraph to preserve records may be discharged –
- (a) by preserving them in any form and by any means, or
 - (b) by preserving the information contained in them in any form and by any means,
- subject to any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.
- (7) A person who fails to comply with this paragraph is liable to a penalty not exceeding £3,000.
- (8) But no penalty is incurred if the records which the person fails to keep or preserve are records which might have been needed only for the purposes of a claim under this Schedule.
- (9) Sections 100 to 103 of TMA 1970 apply to a penalty under this paragraph as they apply to a penalty under a provision of the Taxes Acts to which those sections apply.

Collection and recovery

- 23 Part 6 of TMA 1970 applies to public interest business protection tax as it applies to tax within the meaning of that Act as if in section 69(1) (recovery of penalty or interest), before paragraph (c) there were inserted –
- “(ba) penalties imposed under paragraph 56 to the Finance Act 2009 as a result of the modifications made by paragraph 28 of Schedule X to the Finance Act 2022;”.

Overpaid tax

- 24 (1) Paragraphs 51 to 51G of Schedule 18 to FA 1998 (overpaid tax) apply, as those provisions apply in relation to a claim for repayment or discharge of corporation tax, for the purposes of making a claim for repayment or discharge of an amount of public interest business protection tax (an “overpayment claim”) where the person believes the tax is not due.
- (2) Those provisions have effect for the purposes of an overpayment claim as if –
- (a) in paragraph 51 –
 - (i) in sub-paragraph (4), the reference to Part 7 of Schedule 18 to FA 1998 were to paragraph 25 of this Schedule, and
 - (ii) in sub-paragraph (6), for paragraph (a) and (b) there were substituted –
 - “(a) by provision made by or under Schedule X to the Finance Act 2022, or
 - (b) by provision having effect for the purposes of public interest business protection tax as a result of provision made by or under that Schedule.”,
 - (b) in paragraph 51A(3), for “the Corporation Tax Acts” there were substituted “–

- (a) provision made by or under Schedule X to the Finance Act 2022, or
- (b) provision having effect for the purposes of public interest business protection tax as a result of provision made by or under that Schedule”,
- (c) in paragraph 51B –
 - (i) in sub-paragraph (1), for “more than 4 years after the end of the relevant accounting period” there were substituted “after the last day on which a self-assessment may be made and delivered in relation to the tax (see paragraphs 8(5) and 10(5) of Schedule X to the Finance Act 2022)”,
 - (ii) sub-paragraphs (2) and (3) were omitted, and
 - (iii) in sub-paragraph (4), for “company tax return” there were substituted “return under paragraph 8 or 9 of Schedule X to the Finance Act 2022”,
- (d) in paragraph 51BA(1) –
 - (i) in paragraph (a), for “paragraph 36 or 37” there were substituted “paragraph 12 of Schedule X to the Finance Act 2022”, and
 - (ii) in paragraph (b) for sub-paragraph (iii) there were substituted –
 - “(iii) the last day on which a self-assessment may be made and delivered in relation to the tax (see paragraphs 8(5) and 10(5) of Schedule X to the Finance Act 2022) has passed, and”,
- (e) paragraphs 51C and 51D were omitted,
- (f) in paragraph 51E –
 - (i) references to a discovery assessment were to a discovery assessment under this Schedule (see paragraph 18),
 - (ii) references to a discovery determination were omitted, and
 - (iii) in sub-paragraph (2)(a), for “restrictions in paragraphs 42 to 45” there were substituted “restriction in paragraph 18(2) of Schedule X to the Finance Act 2022,
- (g) paragraph 51F were omitted, and
- (h) in paragraph 51G –
 - (i) in sub-paragraph (1), for “company” there were substituted “person”, and
 - (ii) in sub-paragraph (3)(c), the reference to paragraph 51F(1)(b) were omitted.

Claims under this Schedule

- 25 (1) A claim under paragraph 7 or 24 (for relief from, or repayment or discharge of, tax) must be for an amount which is quantified at the time when the claim is made.
- (2) A claim must be made within 4 years from the day on which the person whose claim it is became liable to the tax to which the claim relates.

- (3) A person who has made a claim under this Schedule and subsequently discovers that a mistake has been made in it may make a supplementary claim within the time allowed for making the original claim.
- (4) Paragraphs 2 and 2A of Schedule 1A to TMA 1970 (making of claims and keeping and preserving of records) apply to a claim under paragraph 7 of this Schedule but as if in paragraph 2A of that Schedule –
- (a) in sub-paragraph (1) “in relation to a year of assessment or other period” were omitted, and
 - (b) the relevant day for the purposes of that sub-paragraph were the day on which an officer of Revenue and Customs has issued a notice under paragraph 7(7) of this Schedule in relation to the claim.
- (5) Schedule 1A to TMA 1970 (claims etc not included in returns) applies to a claim under paragraph 24 of this Schedule but as if in paragraph 2A(1) of that Schedule “in relation to a year of assessment or other period” were omitted.

Penalty for failure to submit return

- 26 (1) Schedule 55 to FA 2009 (penalty for failure to make returns) has effect with the following modifications.
- (2) Paragraph 1(2) of that Schedule has effect as if for the words before paragraph (a) there were substituted “Paragraphs 2 to 13P set out –”.
- (3) The Table in that paragraph has effect as if at the end there were inserted –

“30	Public interest business protection tax	(a) Return under paragraph 8 or 9 of Schedule X to FA 2022 (b) Accounts, statement or document required under either of those paragraphs.”
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- (4) That Schedule has effect as if before paragraph 14 there were inserted –

“Amount of penalty: public interest business protection tax

13K Paragraphs 13L to 13P apply in the case of a return falling within item 30 in the Table.

13L P is liable to a penalty under this paragraph of £10,000.

13M(1) P is liable to a penalty under this paragraph if (and only if) P’s failure continues after the end of the period of 30 days beginning with the penalty date.

(2) The penalty under this paragraph is £10,000.

13N (1) P is liable to a penalty under this paragraph if (and only if) P’s failure continues after the end of the period of 3 months beginning with the penalty date.

- (2) The penalty under this paragraph is 10% of any liability to tax which would have been shown in the return in question.
- 13O (1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 6 months beginning with the penalty date.
- (2) The penalty under this paragraph is 10% of any liability to tax which would have been shown in the return in question.
- 13P (1) P is liable to a penalty under this paragraph if (and only if) P's failure continues after the end of the period of 12 months beginning with the penalty date.
- (2) Where, by failing to make the return, P withholds information which would enable or assist HMRC to assess P's liability to tax, the penalty under this paragraph is determined in accordance with sub-paragraphs (3) and (4).
- (3) If the withholding of the information is deliberate and concealed, the penalty is 100% of any liability to tax which would have been shown in the return in question.
- (4) If the withholding of the information is deliberate but not concealed, the penalty is 70% of any liability to tax which would have been shown in the return in question.
- (5) In any other case, the penalty under this paragraph is 10% of any liability to tax which would have been shown in the return in question."

Penalties for errors

- 27 Schedule 24 to FA 2007 has effect as if in the Table in paragraph 1 after the entry for "Machine games duty" there were inserted –

"Public interest business protection tax	Return under paragraph 8 or 9 of Schedule X to FA 2022.
Public interest business protection tax	Return, statement or declaration in connection with a claim for a relief.
Public interest business protection tax	Accounts in connection with ascertaining liability to tax."

Failure to pay public interest business protection tax on time

- 28 Schedule 56 to FA 2009 has effect as if in the Table in paragraph 1 of that Schedule, after the entry for item 1A there were inserted –

“1B	Public business tax	interest protection	Amount payable under paragraph 8(6) of Schedule X to FA 2022	The date falling 30 days after the date specified in that paragraph as the date by which the amount must be paid
1C	Public business tax	interest protection	Amount payable under paragraph 9(7) of Schedule X to FA 2022	The date falling 30 days after the date specified in that paragraph as the date by which the amount must be paid
1D	Public business tax	interest protection	Amount payable under paragraph 12(8) of Schedule X to FA 2022	The date falling 30 days after the date specified in that paragraph as the date by which the amount must be paid”.

Interest

- 29 Sections 101 to 103 of FA 2009 (interest) come into force on 6 April 2021 in relation to amounts payable or paid to Her Majesty’s Revenue and Customs as a result of provision made by this Schedule.

Application of information, inspection and data-gathering powers

- 30 (1) Schedule 36 to FA 2008 (information and inspection powers) has effect as if, in paragraph 63(1) of that Schedule (meaning of “tax” for the purposes of that Schedule), after paragraph (c) there were inserted –
“(cza) public interest business protection tax,”.
- (2) Schedule 23 to FA 2011 (data-gathering powers) has effect as if, in paragraph 45(1) of that Schedule (meaning of “tax” for the purposes of that Schedule), after paragraph (c) there were inserted –
“(cza) public interest business protection tax,”.

Documents

- 31 (1) Section 115 of TMA 1970 applies to documents to be given, sent, served or delivered under provision made by or under this Schedule as it applies to documents to be given, sent, served or delivered under the Taxes Acts.
- (2) The Income and Corporation Taxes (Electronic Communications) Regulations 2003 (S.I. 2003/282) have effect as if, in regulation 2(1)(a) –
(a) the “or” and the end of paragraph (vi) were omitted,
(b) for the “; and” at the end of paragraph (vii) there were substituted “, or”, and

- (c) after that paragraph there were inserted –
“(viii) Schedule X to the Finance Act 2022; and”.

Disclosures to persons who are joint and severally liable to tax

- 32 (1) Her Majesty’s Revenue and Customs may disclose information about a person they consider liable to public interest business protection tax as a result of paragraph 1 for the purposes mentioned in sub-paragraph (2).
- (2) Those purposes are –
- (a) the provision of information to a person Her Majesty’s Revenue and Customs consider liable to public interest business protection tax as a result of paragraph 4 or 5 where that information may be relevant to the tax position of that person (which may include information about assessments, enquiries and appeals);
 - (b) facilitating the recovery of amounts under paragraph 9(6) (recovery of amounts paid by persons joint and severally liable from principal taxpayer).
- (3) Nothing in this paragraph is to be taken as limiting the circumstances in which information may be disclosed under section 18(2) of CRCA 2005 or under any other enactment or rule of law.
- (4) Subject to sub-paragraph (5), no duty of confidentiality or other restriction on disclosure (however imposed) prevents the disclosure of information in accordance with this paragraph.
- (5) Nothing in this paragraph authorises the making of a disclosure which –
- (a) contravenes the data protection legislation (save that the power conferred by this paragraph is to be taken into account in determining whether a disclosure contravenes that legislation), or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 (save that the power conferred by this paragraph is to be taken into account when determining whether a disclosure is prohibited by those provisions).

Application of public interest business protection tax to partnerships and trusts

- 33 (1) Where a person chargeable to public interest business protection tax as a result of paragraph 1 or 5 is a partnership the responsible partners are jointly and severally liable to any amount to which the partnership is assessed.
- (2) The reference in sub-paragraph (1) to “the responsible partners” is to all the persons who are members of the partnership at any time during the disqualifying period.
- (3) A partnership is treated as the same partnership notwithstanding a change in membership if any person who was a member before the change remains a member after the change.
- (4) Where a person chargeable to public interest business protection tax as a result of paragraph 1 is a trustee, or a body of trustees, of the asset to which the tax relates, the tax may be assessed and charged on and in the name of any one or more of the relevant trustees.

- (5) The reference in sub-paragraph (4) to “the relevant trustees” is to all persons who are trustees at any time during the disqualifying period, and any subsequent trustees.

Territorial application of tax

- 34 A person is chargeable to public interest business protection tax (whether under paragraph 1, 4 or 5) whether or not the person is resident in the United Kingdom.

Power to provide for reliefs etc

- 35 (1) The Treasury may by regulations make such provision as the Treasury consider appropriate—
- (a) about reliefs from public interest business protection tax;
 - (b) about exemptions from public interest business protection tax.
- (2) Regulations under this paragraph may—
- (a) make provision about the administration of any such relief or exemption (for example provision about the making of claims);
 - (b) include provision conferring a discretion on the Commissioners for Her Majesty’s Revenue and Customs or on an officer of Revenue and Customs.

PART 4

SUPPLEMENTARY

Anti-avoidance

- 36 (1) This paragraph applies to arrangements if the main purpose, or one of the main purposes of the arrangements, is to—
- (a) reduce or avoid a charge to public interest business protection tax, or
 - (b) otherwise avoid the effect of any of the provisions of this Schedule.
- (2) Any such reduction or avoidance that would (in the absence of this paragraph) arise from such arrangements is to be counteracted by the making of such adjustments as are just and reasonable.
- (3) Any adjustments required to be made under 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,
 - (c) amendment or disallowance of a claim,
- or otherwise.
- (4) In this paragraph “arrangements” include any agreement, understanding, scheme transaction or series of transactions (whether or not legally enforceable).

No deduction for public interest business protection tax

- 37 In calculating profits, losses or gains for income tax, capitals gains tax or corporation tax purposes, no deduction is allowed in respect of public interest business protection tax.

Information sharing

- 38 (1) This paragraph applies to information that –
- (a) is held by the Secretary of State or the Gas and Electricity Markets Authority, and
 - (b) is relevant to public interest business protection tax.
- (2) Information to which this paragraph applies may be disclosed by whichever of the Secretary of State or Gas and Electricity Markets Authority holds it (or anyone acting on behalf of that person) to the Commissioners for Her Majesty’s Revenue and Customs for the purposes of their functions relating to public interest business protection tax or any other tax.
- (3) Subject to sub-paragraph (5), no duty of confidentiality or other restriction on disclosure (however imposed) prevents the disclosure of information in accordance with sub-paragraph (2).
- (4) This paragraph does not limit the circumstances in which information may be disclosed under section 105(2) to (4) of the Utilities Act 2000 or under any other enactment or rule of law.
- (5) Nothing in this paragraph authorises the making of a disclosure which –
- (a) contravenes the data protection legislation (save that the power conferred by this paragraph is to be taken into account in determining whether a disclosure contravenes that legislation), or
 - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 (save that the power conferred by this paragraph is to be taken into account when determining whether a disclosure is prohibited by those provisions).

Application of the Provisional Collection of Taxes Act 1968

- 39 The Provisional Collection of Taxes Act 1968 has effect as if section 1(1) of that Act (temporary statutory effect of House of Commons resolutions affecting listed taxes or customs or excise duties) contained a reference to public interest business protection tax.

Power to apply, disapply or modify provisions of relevant tax legislation

- 40 (1) For purposes in connection with the administration of public interest business protection tax, the Treasury may by regulations make provision about the application of relevant tax legislation to public interest business protection tax (including provision disapplying or modifying such legislation or applying legislation that would not otherwise apply).
- (2) Relevant tax legislation means any provision made by or under –
- (a) the Taxes Acts, or
 - (b) Part 3 of this Schedule.

Regulations

- 41 (1) A power to make regulations under this Schedule includes power to make –
- (a) consequential, supplementary, incidental, transitional or saving provision;
 - (b) provision having retrospective effect.

- (2) Regulations under this Schedule are to be made by statutory instrument.
- (3) Sub-paragraph (4) applies to—
 - (a) regulations under paragraph 2,
 - (b) regulations under this Schedule that have the effect of limiting the application of, reducing or removing any existing relief or exemption from tax, or
 - (c) regulations under this Schedule which have retrospective effect, other than regulations having retrospective effect which provide for a new or increased relief or a new exemption.
- (4) A statutory instrument containing (whether alone or with other provision) regulations to which this sub-paragraph applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (5) Any other statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

Interpretation of Schedule

- 42 (1) In this Schedule—
- “adjusted value” is to be construed in accordance with paragraph 3;
 - “asset” is to be construed in accordance with paragraph 1(10);
 - “company” means a body corporate;
 - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
 - “discovery assessment” is to be construed in accordance with paragraph 18(1);
 - “disposal” is to be construed in accordance with paragraph 1(10);
 - “disqualifying period” is to be construed in accordance with paragraph 4(4);
 - “disqualifying steps” is to be construed in accordance with paragraph 1;
 - “fair value”, in relation to an asset held by a person (“P”), means the amount which, at the time as at which the value is to be determined, is the amount which P would obtain from an independent person dealing at arm’s length for—
 - (a) in the case of an asset comprising rights and liabilities, the transfer of P’s rights under the asset and the release of all P’s liabilities under it, or
 - (b) in any other case, the transfer of the asset;
 - “principal taxpayer” is to be construed in accordance with (as the case may require) paragraph 4(1), 5(1) or 5(2);
 - “public interest business” is to be construed in accordance with paragraph 2(1);
 - “qualifying purpose” is to be construed in accordance with paragraph 1;
 - “special measures” is to be construed in accordance with paragraph 2(3);
 - “tax” (except where the context otherwise requires) means public interest business protection tax;

“the Taxes Acts” has the meaning given by section 118(1) of TMA 1970;
“the tribunal” means the First-tier Tribunal or, where determined by or
under Tribunal Procedure Rules, the Upper Tribunal.

- (2) For the purposes of this Schedule –
 - (a) whether a person is connected with another person is to be determined in accordance with section 1122 of CTA 2010, and
 - (b) whether a person controls a company is to be determined in accordance with section 1124(2) of that Act.
- (3) Subsections (5) to (7) of section 118 of TMA 1970 (meaning of references to bringing about loss of tax or situation carelessly or deliberately) apply for the purposes of this Schedule as they apply for the purposes of that Act.
- (4) The Treasury may by regulations make further provision about the meaning and application of “fair value” in cases specified in the regulations.

Commencement and expiry

- 43 (1) This Schedule has effect in relation to the taking of disqualifying steps (whenever taken) in disqualifying circumstances where the public interest business in question becomes subject to special measures –
 - (a) on or after 28 January 2022, and
 - (b) before 28 January 2023.
- (2) The Treasury may, for the date for the time being specified in sub-paragraph (1)(b), by regulations substitute such later date before 29 January 2025 as may be specified in the regulations.
- (3) The power in sub-paragraph (2) –
 - (a) may be exercised on more than one occasion;
 - (b) may not be exercised on or after the date for the time being specified in sub-paragraph (1)(b).