

**1 Multinational top-up tax**

Schedule 1 makes amendments to F(No.2)A 2023 in relation to multinational top-up tax (including amendments to implement the UTPR within the meaning of the Pillar Two rules).

SCHEDULE 1

Section 1

MULTINATIONAL TOP-UP TAX

**PART 1**

INTRODUCTION

- 1 F(No.2)A 2023 is amended in accordance with—
- (a) Part 2 of this Schedule (which contains amendments designed to implement the UTPR within the meaning of the Pillar Two rules), and
  - (b) Part 3 of this Schedule (which contains other amendments in relation to multinational top-up tax).

**PART 2**

UNDERTAXED PROFITS RULE

*Multinational top-up tax to include undertaxed profits rule*

- 2 (1) Section 121 (introduction to multinational top-up tax) is amended as follows.
- (2) In subsection (1), after “IIR” insert “and UTPR”.
  - (3) In subsection (5), omit paragraph (e).

*Expansion of chargeable persons*

- 3 (1) Section 122 (chargeable persons) is amended as follows.
- (2) In subsection (1), omit “responsible” in both places.
  - (3) In subsection (2), omit “responsible” in each place.
  - (4) In subsection (3)(a), omit “responsible”.

*Charge to multinational top-up tax to include UTPR*

- 4 (1) For section 123 substitute—
- “123 Charge to multinational top-up tax**
- (1) A person chargeable to tax as, or in respect of, a member of a multinational group (“the relevant member”) is charged multinational top-up tax for an accounting period if one or more members of the group have top-up amounts or additional top-up amounts for that period and—
    - (a) the relevant member is a responsible member for one or more of those members (see section 128), or
    - (b) one or more of those members have untaxed amounts that are allocated to the relevant member (see Chapter 9A).
  - (2) The amount charged is the sum of the following—

- (a) where subsection (1)(a) applies –
    - (i) top-up amounts attributed to the relevant member in accordance with Chapter 7, and
    - (ii) additional top-up amounts attributed to the relevant member in accordance with that Chapter, and
  - (b) where subsection (1)(b) applies, the untaxed amounts allocated to the relevant member in accordance with Chapter 9A.
- (3) Any amounts referred to in subsection (2)(a) and (b) that are not expressed in sterling are to be converted to sterling.”
- (2) In section 124 (how to calculate top-up amounts etc) –
- (a) in the heading, for “and attribute them” substitute “etc”, and
  - (b) after subsection (8) insert –
    - “(8A) Chapter 9A makes provision for –
      - (a) determining whether members of the group have untaxed amounts, and
      - (b) allocates those untaxed amounts to members of the group located in the United Kingdom, other than members that are investment entities.”

*New chapter to deal with UTPR*

5 After Chapter 9 insert –

## “CHAPTER 9A

### UNTAXED AMOUNTS

#### *Introduction*

#### **229A Meaning of potentially undertaxed**

- (1) The top-up amount and additional top-up amounts of a member of a multinational group for an accounting period are potentially undertaxed if –
  - (a) the member is the ultimate parent or is located in the same territory as the ultimate parent, or
  - (b) the taxed condition is not met.
- (2) The taxed condition is met if the ultimate parent is a responsible member.
- (3) If the ultimate parent is not a responsible member, the taxed condition is met if –
  - (a) none of the ownership interests of the ultimate parent in the member are direct ownership interests, and

- (b) every indirect ownership interest the ultimate parent has in the member is derived from an ownership interest the ultimate parent has in a responsible member.
- (4) This section and section 229B do not apply to members of a joint venture group (but see section 229I for alternative provision).

#### **229B Untaxed amounts**

- (1) A member of a multinational group has an untaxed amount if conditions A and B are met.
- (2) Condition A is that the top-up amount and additional top-up amounts of the member are potentially undertaxed.
- (3) Condition B is that the sum of amounts attributed under Chapter 7 to responsible members in respect of the member's top-up amount and additional top-up amounts is less than the sum of the member's top-up amount and additional top-up amounts.
- (4) The untaxed amount is the amount given by subtracting –
  - (a) the sum of amounts attributed under Chapter 7 to responsible members in respect of the member's top-up amount and additional top-up amounts, from
  - (b) the sum of the member's top-up amount and additional top-up amounts.

#### *Allocation of untaxed amounts*

#### **229C Allocation of untaxed amount to members**

- (1) An untaxed amount of a member of a multinational group is to be allocated to qualifying members of the group located in the United Kingdom by –
  - (a) first, determining the amount (“the UK proportion”) of the untaxed amount to be allocated to the group in the United Kingdom in accordance with section 229D, and
  - (b) then, allocating an amount of the UK proportion to each qualifying member located in the United Kingdom in accordance with section 229E.
- (2) For the purposes of this Chapter, a member of a multinational group is qualifying if it is not an investment entity.

#### **229D Amount allocated to the United Kingdom**

- (1) Take the following steps to determine the UK proportion of an untaxed amount of a member of a multinational group –

##### *Step 1*

Determine the number of employees of members of the group located in the United Kingdom for the accounting period to which the untaxed amount relates (“the relevant period”).

*Step 2*

Determine the total number of employees in the relevant period of qualifying members of the group located in territories (including the United Kingdom) in which a qualifying undertaxed profits tax applies to the untaxed amount.

*Step 3*

Divide the result of Step 1 by the result of Step 2.

*Step 4*

Determine the value of tangible fixed assets of the qualifying members of the group located in the United Kingdom for the relevant period.

*Step 5*

Determine the value of tangible fixed assets of the qualifying members of the group located in territories (including the United Kingdom) in which a qualifying undertaxed profits tax applies to the untaxed amount.

*Step 6*

Divide the result of Step 4 by the result of Step 5.

*Step 7*

Add together the results of Step 3 and Step 6 and divide that sum by 2.

*Step 8*

The UK proportion of the untaxed amount is the untaxed amount multiplied by the result of Step 7.

- (2) A qualifying undertaxed profits tax applies in a territory in relation to an untaxed amount if—
  - (a) a qualifying undertaxed profits tax is in force in that territory for the relevant period, and
  - (b) the provisions of that tax result in a proportion of the untaxed amount (however described for the purposes of that tax) that is greater than nil being allocated to the territory.
- (3) See sections 229G and 229H for how to determine number of employees and the value of tangible fixed assets.

**229E Allocation to qualifying members**

- (1) Take the following steps to determine how much of an untaxed amount is to be allocated to each qualifying member located in the United Kingdom—

*Step 1*

Determine the number of employees of the member in the accounting period (“the relevant period”) to which the untaxed amount relates.

*Step 2*

Determine the total number of employees for the relevant period of qualifying members of the group located in the United Kingdom.

*Step 3*

Divide the result of Step 1 by the result of Step 2.

*Step 4*

Determine the value of tangible fixed assets of the member for the relevant period.

*Step 5*

Determine the value of tangible fixed assets for the relevant period of the qualifying members of the group located in the United Kingdom.

*Step 6*

Divide the result of Step 4 by the result of Step 5.

*Step 7*

Add together the results of Step 3 and Step 6 and divide that sum by 2.

*Step 8*

The untaxed amount to be allocated to the member is the UK proportion multiplied by the result of Step 7.

- (2) This section is subject to section 229F.

**229F Election to make one member of a group liable for untaxed amounts**

- (1) The filing member of the group may elect for an accounting period that—
- (a) section 229E does not apply, and
  - (b) instead, a member of the group specified in the election is to be allocated the whole of the UK proportion of each untaxed amount that would be otherwise be allocated between the qualifying members of the group located in the United Kingdom.
- (2) A member of the group may only be specified in the election if—
- (a) the member is located in the United Kingdom, and
  - (b) the member has consented to the election.

- (3) Paragraph 2 of Schedule 15 (annual elections) applies to an election under this section, and has effect for that purpose as if references to an information return or overseas return notification were to a self-assessment return or below-threshold notification.

*How to determine number of employees and tangible fixed assets values*

## **229G Number of employees**

- (1) For the purposes of this Chapter, the number of employees of a qualifying member of a multinational group in an accounting period is the full-time equivalent employee number for that member for that period.
- (2) To determine the full-time equivalent employee number for a member of a multinational group for an accounting period take the following steps—

*Step 1*

Determine the number of full-time employees of that member that were full-time employees for the whole of that period.

*Step 2*

Determine, for each employee of that member for that period who is not a full-time employee for the whole of that period (whether they were part-time employees or were not employed for the whole of the period), such fraction as is just and reasonable.

*Step 3*

Add together the number determined under Step 1 and the fractions determined under step 3.

If the member was a member of the group throughout the whole of the period, the result of this Step is the full-time equivalent employee number.

*Step 4*

Where the member was not a member of the group for the whole period, make such adjustments to the result of Step 3 as is just and reasonable to arrive at a full-time equivalent employee number that reflects the number of employees of the member in the period for which it was a member of the group.

For the purpose of this Step, ignore section 208(2) (members joining or leaving group in an accounting period treated as members for the whole of the period).

- (3) For the purposes of this section “employee”, in relation to a member of a multinational group, means a person whose employment costs are met by that member (whether or not the person’s activities are carried on in the territory of the member) as recorded in the financial statements of the member and who—

- (a) is regarded as an employee under the law of the territory in which the member is located, or
  - (b) acts exclusively under the direction or control of the member or another member of the group (including on a part-time basis).
- (4) Where a member of a multinational group is a flow-through entity, employees of the entity –
  - (a) are to be treated as employees of members of the group that are not flow-through entities that are located in the territory in which the flow-through entity was created, or
  - (b) where there are no such members in that territory, are ignored for the purposes of this Chapter.
- (5) Subsection (4) does not apply to employees of a flow-through entity that are regarded for the purposes of this section as employees of a permanent establishment of the entity.
- (6) Where a permanent establishment does not prepare separate financial accounts, the reference in subsection (3) to employment costs recorded in financial statements is to the employment costs that would have been so recorded had such statements been prepared (and those costs are to be excluded from the financial statements of the main entity for the purposes of applying this section).

#### **229H Value of tangible fixed assets**

- (1) To determine the value of tangible fixed assets of a qualifying member of a multinational group for an accounting period –
  - (a) add together –
    - (i) the sum of the values of each tangible fixed asset held by the member at the start of the period, as those values are recorded in the member's financial statements, and
    - (ii) the sum of the values of each tangible fixed asset held by the member at the end of the period, as those values are recorded in the member's financial statements, and
  - (b) divide the result of paragraph (a) by 2.
- (2) In each case the value of a tangible fixed asset is to include accumulated depreciation, depletion or impairment.
- (3) If the member is not a member of the group at the start of the period, or at the end of the period, the sum of the values of its tangible fixed assets at that time is to be treated as nil.
- (4) For the purpose of subsection (3), ignore section 208(2) (members joining or leaving group in an accounting period treated as members for the whole of the period).

- (5) Where a permanent establishment does not prepare separate financial accounts, the values to be used are those that would have been recorded in those accounts had they been prepared (and those values are to be excluded from the financial statements of the main entity for the purposes of applying this section).
- (6) Tangible fixed assets held by a member of the group that is a flow-through entity –
  - (a) are to be treated as held by members of the group that are not flow-through entities that are located in the territory in which the flow-through entity was created, or
  - (b) where there are no such members in that territory, are to be ignored for the purposes of this Chapter.
- (7) Subsection (6) does not apply to assets of a flow-through entity that are held by a permanent establishment of the entity.
- (8) For the purposes of this Chapter “tangible fixed assets” means all tangible assets wherever located, other than cash or cash equivalents or financial assets.

#### *Joint ventures*

### **229I Joint ventures**

- (1) This section applies where –
  - (a) the ultimate parent of a multinational group is not subject to Pillar Two IIR tax for an accounting period,
  - (b) the group includes a joint venture group, and
  - (c) the members of the joint venture group are undertaxed in relation to the multinational group for that period.
- (2) The members of a joint venture group are undertaxed in relation to a multinational group if –
  - (a) the sum of amounts attributed to responsible members of the multinational group under Chapter 7 in respect of members of the joint venture group’s top-up amount and additional top-up amounts, is less than
  - (b) the sum of such amounts in respect of the joint venture group that would be attributed under that Chapter to the ultimate parent of the multinational group if it were subject to Pillar Two IIR tax.
- (3) The amount given by subtracting the amounts mentioned in paragraph (a) of subsection (2) from the amounts mentioned in paragraph (b) of that subsection is an untaxed amount of the joint venture group in relation to the multinational group.
- (4) Sections 229C to 229F (allocation of untaxed amounts) apply for the purposes of allocating an untaxed amount of a joint venture group

in relation to a multinational group to qualifying members of that multinational group as they apply to the allocation of an untaxed amount of a member of the multinational group to those members.”

*Transition into regime*

6 In Schedule 16 (transitional provision), after paragraph 12 insert—

**“PART 3**

UNTAXED AMOUNTS: INTERNATIONAL EXPANSION OF GROUPS

*No untaxed amounts for groups in initial phase of international expansion*

- 13 (1) This paragraph applies to a multinational group for an accounting period if—
- (a) it meets the international expansion condition for that period, and
  - (b) the accounting period is the first accounting period in which the group came within the scope of Chapter 9A, or any of the following 4 accounting periods.
- (2) If this paragraph applies to a multinational group for an accounting period—
- (a) no member of the group has an untaxed amount relating to that period, and
  - (b) no joint venture group has an untaxed amount in relation to the multinational group relating to that period.
- (3) A multinational group meets the international expansion condition for an accounting period if—
- (a) the group does not have members located in more than 6 territories, and
  - (b) the sum of the values of tangible fixed assets of qualifying members of the group, other than members located in the reference territory, for that period does not exceed 50 million euros.
- (4) For the purposes of this paragraph—
- (a) the value of tangible fixed assets of a qualifying member of a multinational group is to be determined in accordance with section section 229H, and
  - (b) the “reference territory” is the territory for which the sum of the values of tangible fixed assets of qualifying members of the group located in that territory is greatest.
- (5) The first accounting period in which a multinational group comes within the scope of Chapter 9A is the later of—
- (a) the first accounting period for which it meets Condition A in section 129(2) (annual revenue exceeds 750 million euros), and

- (b) the first accounting period beginning on or after the day on which section 229C (allocation of untaxed amount to members) comes into force for any purpose.”

*Consequential amendments: IIR and qualifying undertaxed profits tax*

- 7 (1) In section 128 (responsible members) –
  - (a) in subsection (7)(b)(i), after “equivalent to” insert “the IIR provisions of”, and
  - (b) after subsection (7) insert –
    - “(8) In this section the “IIR provisions of multinational top-up tax” means the provisions of this Part relating to the charging of top-up amounts and additional top-up amounts.”
- (2) In section 257 (meaning of qualifying undertaxed profits tax), in subsection (1), after “it is” insert “ –
  - (a) multinational top-up tax (see, in particular, Chapter 9A), or
  - (b)”.

*Consequential amendments: definitions.*

- 8 In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert –
  - “qualifying member (in Chapter 9A of Part 3 section 229C(2));
  - “UK proportion (in Chapter 9A of Part 3) section 229C(1)(a)”.

*Consequential amendments: elections*

- 9 In Schedule 15 (elections), in paragraph 2(1), after paragraph (h) insert –
  - “(ha) section 229F;”.

*Commencement*

- 10 (1) The amendments made by this Part of this Schedule have effect for accounting periods commencing on or after such day as the Treasury may specify in regulations made by statutory instrument (and different days may be specified for different purposes).
- (2) The Treasury may by regulations made by statutory instrument make transitional, transitory or saving provision in connection with the coming into force of the amendments made by this Part of this Schedule, including provision making different provision in relation to different cases.

### PART 3

#### OTHER AMENDMENTS

##### *Partnerships*

- 11 (1) In section 122 (chargeable persons) omit subsections (4) to (6).
- (2) In section 231 (meaning of entity), after subsection (1) insert—
- “(1A) In this Part—
- “partnership” includes—
- (a) a partnership established under the law of a part of the United Kingdom,
  - (b) an equivalent entity established under the law of a different country or territory,
  - (c) a limited partnership, and
  - (d) a limited liability partnership;
- “limited partnership” means—
- (a) a limited partnership established under the law of a part of the United Kingdom, or
  - (b) an equivalent entity established under the law of a different country or territory;
- “limited liability partnership” means a limited liability partnership established under the law of a part of the United Kingdom;
- “trust” includes—
- (a) a trust established under the law of a part of the United Kingdom;
  - (b) an equivalent entity established under the law of a different country or territory.”
- (3) After section 232, insert—

#### **“232A Partnerships**

- (1) A partnership is to be regarded for the purposes of this Part as continuing to be the same partnership regardless of a change in membership, provided that a person who was a member before the change remains a member after the change.
- (2) Where—
  - (a) ownership interests in a partnership are transferred to more than one individual or entity, and
  - (b) the result is a partnership of which none of the original partners are members,that new partnership is to be treated as if it were the same partnership as the old partnership.

- (3) Where a partnership is otherwise dissolved in an accounting period –
  - (a) the partnership is to be treated as a continuing entity for the purpose of dealing with its rights and obligations under this Part in respect of that accounting period and previous accounting periods, and
  - (b) for the purposes of Schedule 14 (administration) each person who was a partner in that accounting period (before the partnership’s dissolution) is to be treated as a partner of the continuing entity.
- (4) The reference in subsection (2) to a transfer of ownership interests includes any series of transactions having the effect of a transfer (including by way of the cancellation of interests and the issue of corresponding interests).
- (5) References in this section to a partnership do not include a partnership that is a body corporate.”
- (4) After section 268 insert –

**“268A Partnerships**

Section 232A (partnerships) applies for the purposes of this Part as it applies for the purposes of Part 3.”
- (5) In section 269 (chargeable persons for domestic top-up tax) omit subsections (4) to (6).
- (6) In Schedule 14 (administration of multinational top-up tax) –
  - (a) in paragraph 3 –
    - (i) in sub-paragraph (2), omit paragraph (c), and
    - (ii) for sub-paragraph (3) substitute –

“(3) Reference in this Schedule to a “general partner” in relation to an entity equivalent to a limited partnership established under the law of a country or territory outside the United Kingdom, is to a member of that entity that is equivalent to a general partner.

(4) See also section 232A, which contains provision about the continuity of partnerships which is relevant to this paragraph.

(5) Where an obligation of a partnership may be met by one of its partners and the partnership does not comply with that obligation –

- (a) an officer of Revenue and Customs may by notice require any such partner to meet the obligation, and

- (b) that partner is to be treated for that purpose as the filing member (and accordingly may be subject to any penalty for a failure to comply).”,
- (b) after paragraph 37 insert—

*“Partnership payment notices*

- 37A(1) An officer of Revenue and Customs may issue a partnership payment notice if an amount of multinational top-up tax payable by a member of a multinational group that is a partnership (including any interest on that amount) is not paid by the end of the period of three months beginning with the relevant date.
- (2) A partnership payment notice may be issued to any person who—
- (a) is a partner, or
  - (b) was a partner at any time in the accounting period to which the amount payable relates (wherever in the world they are located).
- (3) A partnership payment notice is a notice requiring the recipient to pay an outstanding amount of multinational top-up tax payable by a member of the group that is a partnership by a date specified in the notice.
- (4) Sub-paragraphs (4) to (9) of paragraph 34 and paragraph 36 apply to a partnership payment notice as they apply to a group payment notice.
- (5) In this paragraph and in paragraph 37B—
- (a) reference to a partnership is to a partnership that is not a body corporate, and
  - (b) reference to a partner, in the case of a limited partnership, is to a general partner.

*Recovery of partnership payment and effect for tax purposes etc*

- 37B(1) This paragraph applies where a partner of a member of a multinational group that is a partnership (the “payer”) makes a payment in respect of the liability to pay multinational top-up tax of the partnership (whether or not in consequence of a partnership payment notice).
- (2) The payer may recover the amount from the other partners.
- (3) In calculating the payer's income, profits or losses for tax purposes—
- (a) the payment is not allowed as a deduction, and

- (b) the reimbursement of any such payment is not to be regarded as a receipt.
    - (4) The payment –
      - (a) is not (otherwise) to be taken into account in calculating the profits or losses of for corporation tax or income tax purposes of either the payer or the other partners, and
      - (b) is not to be regarded as a distribution for income tax or corporation tax purposes.
    - (5) The amount paid by the payer is to be taken into account in calculating –
      - (a) the amount of multinational top-up tax unpaid by the partnership, and
      - (b) the amount due by virtue of a partnership payment notice relating to the amount unpaid.
    - (6) Similarly, any payment by the partnership or by any of the other partners of any of the amount unpaid is to be taken into account in calculating the amount due by virtue of a partnership payment notice (or by virtue of any other partnership payment notice relating to the amount unpaid).
    - (7) In this paragraph, “for tax purposes” means for the purposes of income tax, corporation tax, multinational top-up tax or domestic top-up tax.”, and
  - (c) in paragraph 39 –
    - (i) omit the “or” after paragraph (a) in sub-paragraph (1),
    - (ii) after that paragraph insert –
      - “(aa) a partner of a partnership makes a payment on behalf of the partnership or another partner, or”, and
    - (iii) in sub-paragraph (2), after paragraph (a) insert –
      - “(aa) deeming a payment made by a partner of a partnership to have been made by the partnership or another partner;”.
- (7) In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert –
- |   |                                 |
|---|---------------------------------|
| “general partner (in Schedule 14)                                   | paragraph 3(3) of Schedule 14”; |
| “partnership, limited partnership and limited liability partnership | section 231(1A)”;               |
| “trust  | section 231(1A)”.               |

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*Charging permanent establishments of intermediate/partially-owned parent members*

- 12 (1) Section 128 (responsible members) is amended as follows.
- (2) In subsection (3), for paragraph (c) substitute—
- “(c) at least one member of the group in which it has an ownership interest, or a permanent establishment for which it is the main entity, has a top-up amount or an additional top-up amount.”
- (3) In subsection (4), after “for” insert “—
- “(a) every permanent establishment for which it is the main entity, and
- “(b)”.
- (4) In subsection (5), for paragraph (b) substitute—
- “(b) at least one member of the group in which it has an ownership interest, or a permanent establishment for which it is the main entity, has a top-up amount or an additional top-up amount.”
- (5) In subsection (6), after “for” insert “—
- “(a) every permanent establishment for which it is the main entity, and
- “(b)”.
- (6) In section 232, after subsection (3) insert—
- “(3A) But an entity with a permanent establishment is not to be taken as having ownership interests in that permanent establishment.”

*Meaning of “revenue”*

- 13 In section 129, after subsection (5) insert—
- “(6) For the purposes of this Part “revenue” includes all income, gains and other amounts received or accrued that are relevant to profit and loss as reported in consolidated financial statements.”

*Adjustments for companies in distress*

- 14 In section 151 (adjustments for companies in distress), for subsection (7) substitute—
- “(7) Where more than one debt is released at the same time, the debts released are to be treated as a single aggregate amount for the purpose of assessing whether conditions in this section are met (for example, whether the member’s assets exceed its liabilities at any time).”

*Exclusion of certain insurance reserve movement expense*

- 15 In section 153 (exclusion of certain insurance reserve movement expense), in subsection (1) after “excluded dividends” insert “falling within section 141(2)(b)”.

*Permanent establishment income and expense attribution*

- 16 (1) Section 159 (permanent establishment income and expense attribution) is amended as follows.
- (2) In subsection (1), for the words from “only” to the end substitute “–
- (a) reflect all amounts of income and expenses that are attributable to it in accordance with the tax treaty under which it is treated as a permanent establishment, and
  - (b) do not reflect amounts attributable to its main entity in accordance with that treaty.”
- (3) In subsection (2), for the words from “only” to the end substitute “–
- (a) reflect all amounts of income and expenses that are attributable to it in accordance with the law of the territory in which the member is located, and
  - (b) do not reflect amounts attributable to its main entity in accordance with the law of that territory.”
- (4) In subsection (3), for the words from “only” to the end substitute “–
- (a) reflect all amounts of income and expenses that would be attributed to it in accordance with Article 7 of the OECD tax model, and
  - (b) do not reflect amounts that would be attributed to its main entity in accordance with the OECD tax model.”
- (5) After that subsection insert –
- “(4) Amounts are to be reflected (or, as the case may be, not reflected) in the underlying profits of a permanent establishment in accordance with subsections (1) to (3) whether or not–
- (a) in the case of an amount of income, it is subject to tax or not, or
  - (b) in the case of an amount of expenses, it is deductible or not.”

*Transparent entities etc*

- 17 (1) Section 168 (underlying profits of transparent and reverse hybrid entities) is amended in accordance with sub-paragraphs (2) to (8).
- (2) In subsection (2), in paragraph (b), after territory insert “as a result of being tax resident in that territory”.
- (3) In subsection (3), after “entity” insert “or individual”.

- (4) In subsection (6), in paragraph (a), after “is” insert “an entity that is”
- (5) In subsection (9), after “an” insert “individual or to an”.
- (6) In subsection (10), after “entity” insert “or an individual”.
- (7) In subsection (11), in the words before paragraph (a), for “is located” substitute “was created, R is not tax resident in any territory”.
- (8) After that subsection insert –
  - “(12) For the purposes of applying this section in relation to a multinational group whose ultimate parent is a flow-through entity, the ultimate parent is to be treated as if it were not regarded as tax transparent in the territory in which it is located.”
- (9) In section 170 (adjustments for ultimate parent that is a flow-through entity), after subsection (2) insert –
  - “(2A) Where profits are allocated to the ultimate parent as a result of section 168 (underlying profits of transparent and reverse hybrid entities), those profits are to be regarded, for the purposes of this section, as profits to which holders of ownership interests in the ultimate parent are entitled (to each in proportion to the proportion of those profits to which they would have been entitled had those profits actually accrued to the ultimate parent).”
- (10) In section 238 (tax transparency of entities) –
  - (a) for “if” substitute “to the extent that”, and
  - (b) for “and”, in both places it occurs, substitute “or”.

#### *Covered taxes*

- 18 In section 173 (covered taxes), in subsection (1)(c) for “of the member” substitute “in which the tax is imposed”.

#### *Reallocation of tax expense*

- 19 (1) In section 177 (permanent establishments), in subsection (1), after “establishment”, in the second place it occurs, insert “(and is to be regarded as qualifying current tax expense of the permanent establishment for the purposes of applying section 175(2)(a))”.
- (2) Section 178 (reallocation of tax expense) is amended as follows.
- (3) In subsection (1), in the words after paragraph (b) after “qualifying” insert “current”.
- (4) After subsection (1) insert –
  - “(1A) Where –
    - (a) a member of a multinational group has an amount of qualifying current tax expense,
    - (b) that amount is in respect of profits not included in the member’s underlying profits, and

- (c) if those profits had been included in the member's underlying profits, they would have been allocated to another member of the group ("O") under section 167 or 168, that qualifying current tax expense is to be allocated to O (and is to be regarded as qualifying current tax expense of O for the purposes of applying section 175(2)(a)).
- (1B) Section 175(2)(a) (exclusion of amounts relating to income or gains not included in adjusted profits) applies to an amount of qualifying current tax expense allocated in accordance with subsection (1) as if—
- (a) the reference to the member's adjusted profits were to the adjusted profits of the member from whom the amount of qualifying current tax expense was allocated, and
  - (b) profits allocated from that member to O under section 167 or 168 were not excluded from the adjusted profits of that member."
- (5) In subsection (2), in the words before Step 1, after "O" insert "(under subsections (1) and (1A))".
- (6) After subsection (4) insert—
- "(5) Where an amount of qualifying current tax expense would have been allocated to O, but the amount allocated is limited as a result of subsection (2) the amount not allocated remains with the member from whom it otherwise would have been allocated.
  - (6) But if an amount would, ignoring this subsection, remain with the member from whom it would have otherwise been allocated, and that amount relates to income or gains that are not included in the adjusted profits of O, that amount is to be excluded from the covered tax balance of both the member and O."
- (7) In section 179 (controlled foreign company tax regimes)—
- (a) after subsection (1) insert—
    - "(1A) Qualifying current tax expense allocated to F is to be regarded as qualifying current tax expense of F for the purposes of applying section 175(2)(a)."
  - (b) after subsection (3) insert—
    - "(3A) Where an amount of qualifying current tax expense would have been allocated to F but the amount allocated is limited as a result of subsection (2), the amount not allocated remains with C.
    - (3B) But if an amount would, ignoring this subsection, remain with C and that amount relates to income or gains that are not included in the adjusted profits of F, that amount is to be excluded from the covered tax balance of both C and F."

*Controlled foreign company tax regimes*

20 (1) Section 179 (controlled foreign company tax regimes) is amended as follows.

(2) In subsection (1), in paragraph (b), for “controlled foreign company” substitute “CFC entity”.

(3) In subsection (4), after the definition of “controlled foreign company tax regime” insert—

““CFC entity”, in relation to a member of a multinational group who is subject to a controlled foreign company tax regime, means—

- (a) a controlled foreign company in relation to that member,
- (b) a permanent establishment of such a controlled foreign company, or
- (c) an entity whose profits are treated, for the purposes of the regime, as the profits of such a controlled foreign company;”.

(4) In section 180 (blended CFC regimes)—

- (a) in subsection (2)(b), omit “blended”,
- (b) in subsection (4), omit “blended” in the third place it occurs,
- (c) in subsection (5)—
  - (i) in the words before paragraph (a), omit “blended” in the second place it occurs, and
  - (ii) in paragraph (b), omit “blended”,
- (d) in subsection (6)(a), omit “blended”,
- (e) in subsection (8)—
  - (i) in the words before paragraph (a), omit “blended”, and
  - (ii) in paragraph (b), in the words before sub-paragraph (i), omit “blended”, and
- (f) omit subsection (10).

(5) In Schedule 17 (index of defined expressions), in the table, at the appropriate place insert—

“CFC entity	section 179(4)”.
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*Blended CFC regimes*

21 In section 180, in subsection (8)(b) for sub-paragraph (ii) substitute—

- “(ii) the result of Step 2 in section 132(1) for those entities were the aggregate of their profits (and losses) as shown in their financial accounts,
- (iia) the combined covered tax balance for those entities were the aggregate of the taxes shown in their financial accounts,”.

*Qualifying foreign tax credits (substitute loss carry forward assets)*

- 22 (1) Section 183 (substitute loss carry forward assets) is amended as follows.
- (2) In subsection (3), in paragraph (b), for “in respect of which the foreign tax was calculated” substitute “in the territory in which the member is located”.
- (3) In subsection (5), after “section” insert “and in section 183A”
- (4) After section 183 insert –

**“183A Alternative to section 183 where carry forward of credits not permitted**

- (1) A special foreign tax asset of a member of a multinational group is to be used to increase its covered tax balance in accordance with this section.
- (2) Subsection (3) applies where –
- (a) the territory in which a member of a multinational group is located requires that domestic losses are offset against relevant foreign income before foreign tax credits can be applied against tax on foreign income,
  - (b) the territory limits the extent to which foreign tax credits can be applied against tax in a taxable period,
  - (c) the territory allows foreign tax credits to be used to a greater extent where a domestic loss has been used to offset (in whole or in part) relevant foreign income in a prior period, and
  - (d) the member has used a domestic loss to offset (in whole or in part) relevant foreign income.
- (3) Where this subsection applies, the member has a special foreign tax asset arising in the accounting period in which the loss was used.
- (4) The amount of that special foreign tax asset is the amount of the domestic loss used to offset relevant foreign income multiplied by the lesser of –
- (a) the nominal rate of tax in the member’s territory for the taxable period in which it was used, and
  - (b) 15%.
- (5) Where a member of a multinational group has a special foreign tax asset that arose in any previous accounting period, the member is to use that amount to increase its covered tax balance.
- (6) The amount of the special foreign tax asset that is to be used in an accounting period is the lesser of –
- (a) the amount of the asset, and
  - (b) so much of the amount of foreign tax credits credited against tax in the taxable period corresponding to that accounting

period as is capable of being credited only as a result of the prior use of the domestic loss.

Any remainder continues to be a special foreign tax asset (and is available for use in subsequent account periods where subsection (5) applies).”

*Transfer of assets or liabilities to a member of a multinational group*

- 23 In section 211 (transfer of assets or liabilities to a member of a multinational group), in subsection (1) –
- (a) omit the “or” after paragraph (a), and
  - (b) after that paragraph insert –
    - “(aa) the value of the assets or liabilities is also, for that purpose, the carrying value of the assets or liabilities in the hands of the transferor immediately before the transfer if –
      - (i) the transferor is a member of the group and is located in the same territory as the transferee,
      - (ii) the transferee and transferor are included in the same tax consolidation group in that territory (within the meaning of section 164(5)), and
      - (iii) an election under section 164 (election to exclude intra-group transactions) has effect in relation to those members at the time of the transfer, or”

*Investment entity tax transparency election*

- 24 In section 213 (investment entity tax transparency election), after subsection (6) insert –
- “(6A) Where, ignoring the election, profits and amounts of qualifying tax expense would be allocated to M in accordance with sections 168 and 178 to 181, those profits and amounts are to be allocated –
- (a) first to M, and then
  - (b) to O in proportion to the direct ownership interests O is treated as having in M.”

*Simplified calculations for non-material members*

- 25 (1) After section 219 insert –
- “219A Simplified calculations for non-material members**
- (1) The filing member of multinational group may elect that in calculating the effective tax rate of the standard members of the group in a territory for an accounting period –

- (a) the adjusted profits of a non-material member of a group located in that territory and to which the election applies were, instead of being calculated in accordance with Chapter 4, equal to the revenue of that member, and
  - (b) the covered tax balance of that member were, instead of being calculated in accordance with Chapter 5, equal to the income tax accrued by that member.
- (2) An election under this section applies to a non-material member of a group if the member is specified in the election.
- (3) A member of a multinational group is a non-material member of that group if—
  - (a) the member’s assets, liabilities, income, expenses and cash flows are not included in the consolidated financial statements of the ultimate parent because of an exclusion on size or materiality grounds, or
  - (b) the member is a permanent establishment of a member falling within paragraph (a).
- (4) For the purposes of subsection (1) the basis for the determination of a member’s revenue and income tax accrued is to be information derived from qualified financial statements.
- (5) For the purposes of this section, financial statements are qualified if—
  - (a) either—
    - (i) where legislation implementing the OECD’s guidance on country-by-country reporting applies in the relevant territory, the statements meet the requirements for using them as a basis for a country-by-country report under that legislation, or
    - (ii) otherwise, they are consistent with being used as a basis for a country-by-country report in accordance with that guidance,
  - (b) the financial statements have been used by an external auditor of the consolidated financial statements of the ultimate parent to determine that the non-material member’s assets, liabilities, income, expenses and cash flows should not be included in the consolidated financial statements of the ultimate parent, and
  - (c) where the member’s revenue exceeds 50 million euros, the statements were prepared in accordance with an acceptable financial accounting standard or an authorised accounting standard.
- (6) For the purposes of subsection (5) “relevant territory” means—
  - (a) if the ultimate parent filed a country-by-country report in the territory in which it is located, that territory, or

- (b) if a country-by-country report is instead filed in another territory as a parent surrogate filing (within the meaning of the OECD’s guidance on country-by-country reporting), that territory.
- (7) For the purposes of this section “income tax accrued” is to be construed in accordance with—
  - (a) where legislation implementing the OECD’s guidance on country-by-country reporting applies in the relevant territory, that legislation, or
  - (b) otherwise, that guidance.
- (8) An election under this section in respect of a non-material member of a multinational group—
  - (a) must be made having effect for the first accounting period in which the Pillar Two rules apply to the member, and
  - (b) may not otherwise be made (and accordingly if the election is revoked it cannot be made again).
- (9) Paragraph 1 of Schedule 15 (long term elections) applies to an election under this section.
- (10) But that paragraph has effect for the purposes of such an election as if—
  - (a) sub-paragraph (4) were omitted (so that there is no restriction on revoking the election), and
  - (b) sub-paragraph (5) were omitted (as an election under this section cannot be made again once revoked).”
- (2) After section 251 insert—
  - “251A Meaning of country-by-country report**
  - (1) In this Part “country-by-country report” means a country-by-country report in respect of a multinational group that is prepared in accordance with the OECD’s guidance on country-by-country reporting.
  - (2) Reference to a country-by-country report in respect of a multinational group that is a multi-parent group is to a report in respect of all of the constituent groups.
  - (3) ““The OECD’s guidance on country-by-country reporting”” has the meaning it has in section 122 of FA 2015.”
- (3) In Schedule 15 (elections), in paragraph 1(1), after paragraph (i) insert—
  - “(j) section 219A.”
- (4) In Schedule 16 (transitional provision), in paragraph 3—

(a) for sub-paragraph (7) substitute –

“(7) For the purposes of this Part of this Schedule, a country-by-country report in relation to a territory is “qualifying” if –

(a) it is filed in accordance with legislation implementing the OECD’s guidance on country-by-country reporting, and

(b) the information relating to the territory is prepared on the basis of qualified financial statements of the multinational group (see paragraph 4).”, and

(b) omit sub-paragraph (8).

#### *Joint ventures*

26 In section 227 (application of Part to joint venture groups), in subsection (2) for “the multinational group” substitute “each multinational group”.

#### *Insurance investment entities*

27 (1) Section 236 (investment funds and investment entities) is amended as follows.

(2) In subsection (2) –

(a) omit paragraph (b),

(b) for paragraph (c) substitute –

“(c) the income or gains the entity is designed to generate are intended to offset liabilities under insurance or annuity contracts;”, and

(c) for paragraph (e) substitute –

“(e) regulated entities hold 100% of the ownership interests in it (see section 244 for how to calculate this).”

(3) After that subsection insert –

“(2A) An entity is a regulated entity if –

(a) the entity is subject to a regulatory regime in the territory in which it is established or managed, and

(b) that regime is specific to persons engaged in the business of entering into insurance or annuity contracts or of performing activities ancillary to such business.”

#### *Location of flow-through entities*

28 In section 240, for subsection (1) substitute –

“(1) Where a flow-through entity would be a responsible member of a multinational group if the entity were located in the territory in which it is created, it is located in that territory.”

*Application of Pillar Two rules to members of a group*

- 29 (1) In section 255 (meaning of Pillar Two rules)–
- (a) after subsection (2) insert –
    - “(2A) Pillar Two rules apply to a member of a multinational group (“the relevant member”) in an accounting period if conditions A, B and C are met.”,
  - (b) in subsection (3)–
    - (i) for the words before paragraph (a) substitute “Condition A is met if–”,
    - (ii) in paragraph (a), after “multinational group” insert “for the accounting period”, and
    - (iii) in paragraph (b), after “multinational group” insert “for the accounting period”, and
  - (c) after that subsection insert –
    - “(4) Condition B is that –
      - (a) the ultimate parent is subject to Pillar Two IIR tax for the accounting period,
      - (b) an intermediate parent member of the group is subject to Pillar Two IIR tax for the accounting period and has an ownership interest in –
        - (i) the relevant member, or
        - (ii) a member of the group located in the same territory as the relevant member,
      - (c) any member of the group is located in a territory in which a qualifying undertaxed profits tax is in force for the accounting period, or
      - (d) the relevant member is located in a territory in which a qualifying domestic top-up tax is in force for the accounting period.
    - (5) Condition C is that no transitional safe harbour election applies to the relevant member for that period.
    - (6) For the purposes of this Part “transitional safe harbour election” means –
      - (a) an election under paragraph 3(1) (transitional safe harbour), or
      - (b) an election corresponding to that election for the purposes of a tax imposed by a Pillar Two territory that is equivalent to multinational top-up tax so far as it relates to top-up tax under the IIR (within the meaning of the Pillar Two rules).”
- (2) In paragraph 2 of Schedule 16 –

- (a) in sub-paragraph (1), for paragraph (b) substitute –
    - “(b) the Pillar Two rules do not apply to the transferor for the accounting period in which the transfer takes place, and”
  - (b) in sub-paragraph (4)(b) –
    - (i) in the words before sub-paragraph (i), after “which” insert “the Pillar Two rules apply to the transferee.”, and
    - (ii) omit sub-paragraphs (i) and (ii), and
  - (c) in sub-paragraph (6), in paragraph (a) of Step 2, for paragraph (a) substitute –
    - “(a) the ultimate parent had been located in the United Kingdom and the accounting period commenced on or after 31 December 2023, and”.
- (3) In paragraph 3 of that Schedule –
- (a) in sub-paragraph (2)(c)(ii), for “applied to members” substitute “would, ignoring any transitional safe harbour election, have applied to any member”, and
  - (b) omit sub-paragraph (4).

*Intragroup transfers before entry into regime*

- 30 (1) Paragraph 2 of Schedule 16 (intra-group transfers before entry into regime) is amended as follows.
- (2) In sub-paragraph (3)(b), after “limited to” insert “the lesser of the cap amount and the sum of –
- (i) the value of deferred tax assets that arose in relation to the assets before their transfer, and
  - (ii)”.
- (3) After that sub-paragraph insert –
- “(3A) For the purposes of determining the value of a deferred tax asset under sub-paragraph (3)(b)(i) –
- (a) if the rate of tax in relation to that asset is greater than 15%, the value is to be adjusted so that it reflects the value it would be if the rate had been 15%, and
  - (b) exclude the impact of any valuation adjustments or accounting recognition adjustments.”
- (4) In sub-paragraph (5)(b), for “is” substitute “, and the value of deferred tax assets that arose in relation to the assets before their transfer, are”.
- (5) For sub-paragraph (7) substitute –
- “(7) In determining the tax expense of the transferor in relation to the transfer of the assets –

- (a) where any loss arising in the accounting period in which the transfer took place is offset against any taxable gain arising on the transfer, ignore that offsetting, and
  - (b) exclude the impact of any valuation adjustments or accounting recognition adjustments.”
- (6) In sub-paragraph (9) –
- (a) for “, ignoring sub-paragraph (7),” substitute “the sum of the”,
  - (b) for “in relation to the transfer of assets would exceed” substitute “and the value of deferred tax assets that arose in relation to the assets before their transfer is greater than”, and
  - (c) omit “in relation to it”.
- (7) In sub-paragraph (11), for “substantially the same economic effect as” substitute “a similar effect for accounting purposes to”.

*Transitional safe harbour*

- 31 In paragraph 6(6) of Schedule 16 (transitional safe harbour), for “if” substitute “unless”.

*Minor corrections and clarifications*

- 32 (1) In section 128 (responsible members) –
- (a) in subsection (2) –
    - (i) for “its members” substitute “the members of the group”, and
    - (ii) for “it” substitute “the ultimate parent”, and
  - (b) in subsection (7) –
    - (i) in the words before paragraph (a), after “tax” insert “for an accounting period”,
    - (ii) in paragraph (a), at the beginning insert “the period commences on or after 31 December 2023 and”, and
    - (iii) in paragraph (b), in sub-paragraph (i), after “force” insert “for the period”.
- (2) In section 138(1) (profits adjusted to be before tax), omit “its”.
- (3) In section 140 (profits adjusted to be profits before certain purchase accounting adjustments) –
- (a) in subsection (2), for “shares” substitute “ownership interests”, and
  - (b) in subsection (3), for “shares” substitute “ownership interests”.
- (4) In section 187 (election for losses to be treated as special loss deferred tax assets), in subsection (6), in the words after paragraph (b), for “where subsection (5) applies” substitute “in which the election has effect”.
- (5) In section 197 (eligible tangible asset amount) –

- (a) for subsection (1) substitute –
  - “(1) To determine the eligible tangible asset amount of a member of a multinational group for an accounting period –
    - (a) add together –
      - (i) the sum of the recorded carrying values of each eligible tangible asset held by the member at the start of the period, and
      - (ii) the sum of the recorded carrying values of each eligible tangible asset held by the member at the end of the period, and
    - (b) divide the result of paragraph (a) by 2.”, and
  - (b) omit subsection (2).
- (6) In section 201 (inclusion ratio) –
  - (a) in subsection (1), in Step 2, after “held by” insert “individuals and”, and
  - (b) in subsection (2) –
    - (i) after “held by” insert “individuals and”, and
    - (ii) after “such” insert “individuals and”.
- (7) In section 244, in subsection (2)(a), after “by” insert “an individual or”.
- (8) In section 245, in subsection (2), after “Where” insert “an individual or”.
- (9) In section 246(1)(b)(ii) for “E” substitute “F”;
- (10) In section 248 (exclusion of indirect interests held through ultimate parent), after “entity” insert “or individual”.
- (11) In section 259, in the definition of “tax treaty”, for “agreement for” substitute “international agreement for, or provision of an international agreement concerned with”.
- (12) In Schedule 14 (administration) –
  - (a) in paragraph 34(2), for “the time the liability to tax arose” substitute “any time in the accounting period to which the amount payable relates”, and
  - (b) in paragraph 37 –
    - (i) in sub-paragraph (4)(b), after “for” insert “income tax or”, and
    - (ii) in sub-paragraph (6), for “payer” substitute “payee”.
- (13) In Schedule 15 (elections), in paragraph 1(1), after paragraph (a) insert –
  - “(aa) section 141(7);”.

*Definitions*

- 33 In Schedule 17 (index of defined expressions), in the table, at the appropriate places insert—
- |                                     |                  |
|-------------------------------------|------------------|
| “country-by-country report          | section 251A”;   |
| “revenue                            | section 129(6)”; |
| “transitional safe harbour election | section 255(6)”. |

*Commencement*

- 34 The amendments made by this Part of this Schedule have effect for accounting periods commencing on or after 31 December 2023.