

*Status: Point in time view as at 15/09/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Income Tax (Trading and Other Income) Act 2005, Cross Heading: Taxation of Chargeable Gains Act 1992 (c. 12). (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

#### CONSEQUENTIAL AMENDMENTS

#### PART 2

#### OTHER ENACTMENTS

##### *Taxation of Chargeable Gains Act 1992 (c. 12)*

426 The Taxation of Chargeable Gains Act 1992 is amended as follows.

<sup>F1</sup>427 .....

##### **Textual Amendments**

**F1** Sch. 1 para. 427 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 21(h)**

<sup>F2</sup>428 .....

##### **Textual Amendments**

**F2** Sch. 1 para. 428 omitted (with effect in accordance with Sch. 2 para. 22 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 21(h)**

<sup>F3</sup>429 .....

##### **Textual Amendments**

**F3** Sch. 1 para. 429 omitted (with effect in accordance with Sch. 7 para. 81 of the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 79(b)**

430 In section 41(4) (restriction of losses by reference to capital allowances and renewals allowances)—

(a) in paragraph (b) after “Taxes Act” insert “ or any deduction under section 315 of ITTOIA 2005 ”, and

(b) in paragraph (c) after “Taxes Act” insert “ or section 170 of ITTOIA 2005 ”.

431 (1) Amend section 59 (partnerships) as follows.

(2) Renumber the existing text as subsection (1).

(3) After that subsection insert—

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“(2) Subsection (3) applies if—

- (a) a person resident in the United Kingdom (“the resident partner”) is a member of a partnership which resides outside the United Kingdom or which carries on any trade, profession or business the control and management of which is situated outside the United Kingdom, and
- (b) by virtue of any arrangements falling within section 788 of the Taxes Act (“the arrangements”) any of the capital gains of the partnership are relieved from capital gains tax in the United Kingdom.

(3) The arrangements do not affect any liability to capital gains tax in respect of the resident partner's share of any capital gains of the partnership.”

432 In section 97(7) (supplementary provisions) for “section 660G(1) and (2) of the Taxes Act” substitute “ section 620 of ITTOIA 2005 ”.

433 (1) Amend section 117 (meaning of qualifying corporate bond) as follows.

- (2) In subsection (2AA) for “relevant discounted security for the purposes of Schedule 13 to the Finance Act 1996” substitute “ deeply discounted security for the purposes of Chapter 8 of Part 4 of ITTOIA 2005 (see section 430) ”.
- (3) In subsection (6C) for “Schedule 13 to the Finance Act 1996 (relevant discounted securities)” substitute “ Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 433) ”.

434 (1) Amend section 142 (capital gains on stock dividends) as follows.

- (2) In subsection (1) for the words from “section 249” to “that section” substitute “ section 410(2), (3) or (4) of ITTOIA 2005 applies ”.
- (3) In subsection (3) for “the appropriate amount in cash (within the meaning of section 251(2) to (4) of the Taxes Act)” substitute “ the cash equivalent of the share capital in accordance with section 412 of ITTOIA 2005 ”.

<sup>F4</sup>435 .....

#### Textual Amendments

**F4** Sch. 1 para. 435 omitted (with effect in accordance with Sch. 12 para. 18(1) of the amending Act) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 12 para. 13\(4\)](#)

436 In section 151 (personal equity plans) for subsections (2) and (2A) substitute—

“(2) The provisions of Chapter 3 of Part 6 of ITTOIA 2005 (income from individual investment plans), except section 694(1) and (2), shall apply in relation to regulations made under subsection (1) as they apply to regulations made under section 694(1), but with the substitution for any reference to income tax of a reference to capital gains tax.”

437 In section 151A(6) (venture capital trusts: reliefs) for the words from “in accordance” to the end of the subsection substitute “ as references to shares not acquired within the limit in section 709(4) of ITTOIA 2005; and the question whether shares are acquired within that limit shall be determined as it is for the purposes of Chapter 5 of Part 6 of that Act. ”

438 After section 151B insert—

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**“151C Strips: manipulation of price: associated payment giving rise to loss**

- (1) This section applies if—
- (a) as a result of any scheme or arrangement which has an unallowable purpose, the circumstances are, or might have been, as mentioned in paragraph (a), (b) or (c) of section 449(2) of ITTOIA 2005,
  - (b) under the scheme or arrangement, a payment falls to be made otherwise than in respect of the acquisition or disposal of a strip, and
  - (c) as a result of that payment or the circumstances in which it is made, a loss accrues to any person.

(2) The loss shall not be an allowable loss.

(3) For the purposes of this section a scheme or arrangement has an unallowable purpose if the main benefit, or one of the main benefits that might have been expected to result from, or from any provision of, the scheme or arrangement (apart from section 449 of ITTOIA 2005 and this section) is—

- (a) the obtaining of a tax advantage by any person, or
- (b) the accrual to any person of an allowable loss.

(4) The reference in subsection (1)(b) to the acquisition or disposal of a strip shall be construed as if it were in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see, in particular, sections 437 and 445 of that Act for the meaning of “disposal” and “acquisition” and section 444 of that Act for the meaning of “strip”).

(5) In subsection (3)(a) “tax advantage” has the meaning given by section 709(1) of the Taxes Act.

(6) This section applies to losses accruing on or after 17th March 2004.”

439 In section 156(4) (assets of Class 1) after “Taxes Act” insert “ or section 19 of ITTOIA 2005 ”.

440 In section 198(5)(b) (replacement of business assets used in connection with oil fields) after “the Taxes Act” insert “ or defined as “oil-related activities” in section 16(2) of ITTOIA 2005 ”.

441 (1) Amend section 241 (furnished holiday lettings) as follows.

(2) For subsection (2) substitute—

“(2) For the purposes of this section as it applies to capital gains tax the “commercial letting of furnished holiday accommodation” has the same meaning as it has for the purposes of Chapter 6 of Part 3 of ITTOIA 2005.

For the purposes of this section as it applies to corporation tax in respect of chargeable gains the “commercial letting of furnished holiday accommodation” has the meaning given by section 504 of the Taxes Act.”

(3) In subsection (3)(a) for the words from “Schedule A business” to “Kingdom” substitute “ UK property business (within the meaning of the Taxes Act), or any Schedule A business (within the meaning of that Act), which consists of, or so far as it consists of, the commercial letting of furnished holiday accommodation ”.

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- 442 In section 251(8)(b) (general provisions concerning debts) for “relevant discounted security for the purposes of Schedule 13 to that Act if paragraph 3(2)(c) of that Schedule” substitute “deeply discounted security for the purposes of Chapter 8 of Part 4 of ITTOIA 2005 if section 432(2) of that Act”.
- 443 In section 254(1)(c) (definition of “a qualifying loan” for relief for debts on qualifying corporate bonds) for “relevant” and “Schedule 13 to the Finance Act 1996” substitute respectively “deeply” and “Chapter 8 of Part 4 of ITTOIA 2005”.
- 444 After section 261 insert—

*“Know-how*

**261A Disposal of know-how as part of disposal of all or part of a trade**

- (1) This section applies if—
- (a) a person carrying on a trade receives consideration for the disposal of know-how which has been used in the trade, and
  - (b) the know-how is disposed of as part of the disposal of all or part of the trade.
- (2) If, as a result of section 194 of ITTOIA 2005, the consideration is treated for income tax purposes as—
- (a) a capital receipt for goodwill (in relation to the person disposing of the know-how), or
  - (b) a capital payment for goodwill (in relation to the person acquiring the know-how),
- the consideration is treated for capital gains tax purposes in the same way.
- (3) This section has effect as if it were contained in Chapter 14 of Part 2 of ITTOIA 2005.”
- 445 (1) Amend section 271 (miscellaneous exemptions) as follows.
- (2) In subsection (1)(f) for “section 322 of the Taxes Act” substitute “section 771 of ITTOIA 2005”.
- (3) In subsection (4)—
- (a) for “bonus”, in both places, substitute “interest”,
  - (b) for “section 326 or 326A of the Taxes Act (certified contractual savings schemes and tax-exempt special savings accounts)” substitute “section 702 of ITTOIA 2005 (certified SAYE savings arrangements)”,
  - (c) for “savings scheme”, in the first place where it occurs, substitute “savings arrangement”,
  - (d) for “certified contractual savings scheme” substitute “certified SAYE savings arrangement”,
  - (e) for “scheme”, in the last place where it occurs, substitute “arrangement”, and
  - (f) at end insert—

“In this subsection “certified SAYE savings arrangement” has the meaning given by section 703 of ITTOIA 2005.”

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446 In section 286(3) (connected persons: interpretation) for “Chapter 1A of Part XV of the Taxes Act (see section 660G(1) and (2) of that Act)” substitute “ Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act) ”.

447 (1) Amend section 288 (interpretation) as follows.

(2) In subsection (1) after the definition of “ITEPA 2003” insert—

““ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005;”.

(3) After subsection (7) insert—

“(7A) In the application of this Act to Scotland “surrender” includes renunciation.”

448 In Schedule A1 (application of taper relief), in paragraph 17(6), for “section 660G(1) and (2) of the Taxes Act” substitute “ section 620 of ITTOIA 2005 ”.

449 In Schedule 1 (application of exempt amount and reporting limits in cases involving settled property), in paragraph 2(7), for “section 660G(1) and (2) of the Taxes Act” substitute “ section 620 of ITTOIA 2005 ”.

450 In paragraph 13(7)(h) of Schedule 5B (enterprise investment scheme: re-investment)—

(a) in sub-paragraph (i) after “trade or profession” insert “ carried on wholly or partly in the United Kingdom ”, and

(b) in sub-paragraph (ii) for the words from “in computing” to the end substitute “ in calculating for tax purposes the profits of that trade or profession ”.

451 (1) Amend Schedule 8 (leases) as follows.

(2) In paragraph 5—

<sup>F5</sup>(a) .....

<sup>F5</sup>(b) .....

<sup>F5</sup>(c) .....

(d) for sub-paragraph (5) substitute—

“(5) References in sub-paragraphs (1) and (2) above to a premium include references to—

(a) a premium deemed to have been received under subsection (4) or (5) of section 34 of the Taxes Act (which correspond to paragraph 3(2) and (3) of this Schedule),

(b) a sum that becomes payable by the tenant under the terms subject to which a lease is granted in lieu of the whole or a part of the rent for any period,

(c) a sum that becomes payable by the tenant under the terms subject to which a lease is granted as consideration for the surrender of the lease, and

(d) a sum that becomes payable by the tenant (otherwise than by way of rent) as consideration for the variation or waiver of any of the terms of a lease.”

(3) In paragraph 6—

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(a) for sub-paragraph (1) substitute—

“(1) If—

- (a) under section 37(4) of the Taxes Act (allowance where, by the grant of a sublease, a lessee has converted a capital amount into a right to income) a person is to be treated as paying additional rent in consequence of having granted a sublease, or
- (b) under section 292 of ITTOIA 2005 a person is to be treated as incurring expenses in consequence of having granted a sublease,

the amount of any loss accruing to the person on the disposal by way of the grant of the sublease shall be reduced by the total amount of rent which the person is thereby treated as paying, or the total amount of expenses which the person is thereby treated as incurring, over the term of the sublease (and without regard to whether relief is thereby effectively given over the term of the sublease), but not so as to convert the loss into a gain, or to increase any gain.”

- (b) in sub-paragraph (2) at the end insert “ or by virtue of section 282 of ITTOIA 2005 (assignments for profit of lease granted at undervalue) as a receipt of a UK property business (within the meaning of that Act) ”, and
- (c) in sub-paragraph (3) after “that paragraph” insert “ or under section 301 or 302 of ITTOIA 2005 on a claim under that section, ”.

(4) For paragraph 7 substitute—

“7 If—

- (a) under section 34(2) and (3) of the Taxes Act any amount is brought into account by virtue of section 34(2) and (3) of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) which is or is treated as carried on by any person, or
- (b) under section 277 of ITTOIA 2005 any amount is brought into account by virtue of section 278 of that Act as a receipt of a UK property business (within the meaning of that Act) which is carried on by any person,

that person shall be treated for the purposes of the computation of any gain accruing to him as having incurred at the time the lease was granted expenditure of that amount (in addition to any other expenditure) attributable to the asset under section 38(1)(b).”

(5) In paragraph 7A after “Schedule A business” insert “ or UK property business ”.

#### **Textual Amendments**

**F5** Sch. 1 para. 451(2)(a)(b)(c) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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