



# Finance Act 2012

## 2012 CHAPTER 14

### PART 1

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER 1

#### INCOME TAX AND CORPORATION TAX CHARGES AND RATE BANDS

##### *Income tax*

### **1 Charge for 2012-13 and rates for 2012-13 and subsequent tax years**

- (1) Income tax is charged for the tax year 2012-13, and for that tax year—
  - (a) the basic rate is 20%,
  - (b) the higher rate is 40%, and
  - (c) the additional rate is 50%.
- (2) For the tax year 2013-14—
  - (a) the basic rate is 20%,
  - (b) the higher rate is 40%, and
  - (c) the additional rate is 45%.
- (3) In Chapter 2 of Part 2 of ITA 2007 (rates at which income tax is charged)—
  - (a) in section 8(3) (dividend additional rate), for “42.5%” substitute “ 37.5% ”,
  - (b) in section 9(1) (trust rate), for “50%” substitute “ 45% ”, and
  - (c) in section 9(2) (dividend trust rate), for “42.5%” substitute “ 37.5% ”.
- (4) In section 394 of ITEPA 2003 (charge on relevant benefits provided under employer-financed retirement benefits scheme), in subsection (4) for “50%” substitute “ 45% ”.

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- (5) In section 640 of ITTOIA 2005 (capital sums treated as income of the settlor: grossing-up of deemed income), in subsection (6)(b)—
- (a) omit the “and” at the end of sub-paragraph (ii),
  - (b) in sub-paragraph (iii) for “or any subsequent tax year.” substitute “, 2011-12 or 2012-13, and”, and
  - (c) after that sub-paragraph insert—
    - “(iv) 45%, if the relevant year is the year 2013-14 or any subsequent tax year.”
- (6) The amendments made by subsections (3) to (5) have effect for the tax year 2013-14 and subsequent tax years.

## 2 Basic rate limit for 2012-13

- (1) For the tax year 2012-13 the amount specified in section 10(5) of ITA 2007 (basic rate limit) is replaced with “ £34,370 ”.
- (2) Accordingly section 21 of that Act (indexation of limits), so far as relating to the basic rate limit, does not apply for that tax year.

## 3 Personal allowance for 2012-13 for those aged under 65

- (1) For the tax year 2012-13 the amount specified in section 35(1) of ITA 2007 (personal allowance for those aged under 65) is replaced with “ £8,105 ”.
- (2) Accordingly section 57 of that Act (indexation of allowances), so far as relating to the amount specified in section 35(1) of that Act, does not apply for that tax year.

## 4 Personal allowances from 2013

- (1) Chapter 2 of Part 3 of ITA 2007 (personal allowance etc) is amended in accordance with subsections (2) to (6).
- (2) In section 35 (personal allowance for those aged under 65)—
  - (a) in subsection (1), for paragraph (a) substitute—
    - “(a) was born after 5 April 1948, and”, and
  - (b) in the heading for “**aged under 65**” substitute “ **born after 5 April 1948** ”.
- (3) In section 36 (personal allowance for those aged 65 to 74)—
  - (a) for subsection (1) substitute—
    - “(1) An individual who makes a claim is entitled to a personal allowance of £10,500, or (if greater) the section 35 amount, for a tax year if the individual—
      - (a) was born after 5 April 1938 but before 6 April 1948, and
      - (b) meets the requirements of section 56 (residence etc).”,
  - (b) in subsection (2)—
    - (i) for “For” substitute “ If the allowance under subsection (1) is greater than the section 35 amount, for ”,
    - (ii) in paragraph (a), for “half the excess” substitute “ an amount equal to half of that excess income ”, and

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- (iii) in paragraph (b), for the words from “amount” to the end substitute “ section 35 amount. ”,
  - (c) after that subsection insert—
    - “(2A) In this section “the section 35 amount” means the amount of any allowance to which the individual would be entitled under section 35 for the tax year if the individual had been born after 5 April 1948.”, and
  - (d) in the heading for “**aged 65 to 74**” substitute “ **born after 5 April 1938 but before 6 April 1948** ”.
- (4) In section 37 (personal allowance for those aged 75 and over)—
  - (a) for subsection (1) substitute—
    - “(1) An individual who makes a claim is entitled to a personal allowance of £10,660, or (if greater) the section 35 amount, for a tax year if the individual—
      - (a) was born before 6 April 1938, and
      - (b) meets the requirements of section 56 (residence etc).”,
    - (b) in subsection (2)—
      - (i) for “For” substitute “ If the allowance under subsection (1) is greater than the section 35 amount, for ”,
      - (ii) in paragraph (a), for “half the excess” substitute “ an amount equal to half of that excess income ”, and
      - (iii) in paragraph (b), for the words from “amount” to the end substitute “ section 35 amount. ”,
    - (c) after that subsection insert—
      - “(2A) In this section “the section 35 amount” means the amount of any allowance to which the individual would be entitled under section 35 for the tax year if the individual had been born after 5 April 1948.”, and
    - (d) in the heading for “**aged 75 and over**” substitute “ **born before 6 April 1938** ”.
- (5) In section 41 (allowances in year of death), omit subsections (2) and (3).
- (6) In section 57 (indexation of allowances)—
  - (a) in subsection (1)—
    - (i) in paragraph (a) for “aged under 65” substitute “ born after 5 April 1948 ”, and
    - (ii) omit paragraphs (b) and (c), and
  - (b) in subsection (3)(a), for “, 36(1), 37(1),” substitute “ and ”.
- (7) In section 508A of ICTA (contemplative religious communities: profits exempt from corporation tax), in subsections (5) and (9)(b) for “under 65” substitute “ born after 5 April 1948 ”.
- (8) The amendments made by this section have effect for the tax year 2013-14 and subsequent tax years.

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### *Corporation tax*

#### **5 Main rate of corporation tax for financial year 2012**

- (1) In section 5(2)(a) of FA 2011 (main corporation tax rate for financial year 2012 on profits other than ring fence profits), for “25%” substitute “ 24% ”.
- (2) The amendment made by this section is treated as having come into force on 1 April 2012.

#### **6 Charge and main rate for financial year 2013**

- (1) Corporation tax is charged for the financial year 2013.
- (2) For that year the rate of corporation tax is—
  - (a) 23% on profits of companies other than ring fence profits, and
  - (b) 30% on ring fence profits of companies.
- (3) In subsection (2) “ring fence profits” has the same meaning as in Part 8 of CTA 2010 (see section 276 of that Act).

#### **7 Small profits rate and fractions for financial year 2012**

- (1) For the financial year 2012 the small profits rate is—
  - (a) 20% on profits of companies other than ring fence profits, and
  - (b) 19% on ring fence profits of companies.
- (2) For the purposes of Part 3 of CTA 2010, for that year—
  - (a) the standard fraction is 1/100th, and
  - (b) the ring fence fraction is 11/400ths.
- (3) In subsection (1) “ring fence profits” has the same meaning as in Part 8 of that Act (see section 276 of that Act).

## **CHAPTER 2**

### INCOME TAX: GENERAL

#### *Child benefit*

#### **8 High income child benefit charge**

Schedule 1 contains provision for and in connection with a high income child benefit charge.

#### *Anti-avoidance*

#### **9 Post-cessation trade or property relief: tax-generated payments or events**

- (1) Part 4 of ITA 2007 (loss relief) is amended as follows.

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- (2) In section 96(7) (post-cessation trade relief), after paragraph (b) insert—  
“(ba) section 98A (denial of relief for tax-generated payments or events),”.
- (3) After section 98 insert—

**“98A Denial of relief for tax-generated payments or events**

- (1) Post-cessation trade relief is not available to a person in respect of a payment or an event which is made or occurs directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements (and, accordingly, no section 261D claim may be made in respect of the payment or event).
- (2) For this purpose “relevant tax avoidance arrangements” means arrangements—
- (a) to which the person is a party, and
  - (b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability as a result of the availability of post-cessation trade relief (whether by making a claim for that relief or a section 261D claim).
- (3) In this section—
- (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
  - (b) “section 261D claim” means a claim under section 261D of TCGA 1992.”
- (4) In section 125(6) (post-cessation property relief), after paragraph (b) insert—  
“(ba) section 98A (denial of relief for tax-generated payments or events),”.
- (5) The amendments made by subsections (2) and (3) have effect in relation to—
- (a) payments which are made on or after 12 January 2012 except where they are made pursuant to an unconditional obligation in a contract made before that date, or
  - (b) events which occur on or after that date.
- (6) The amendment made by subsection (4) has effect in relation to—
- (a) payments which are made on or after 13 March 2012 except where they are made pursuant to an unconditional obligation in a contract made before that date, or
  - (b) events which occur on or after that date.
- (7) In subsections (5)(a) and (6)(a) “an unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).
- (8) For the purposes of subsections (5)(b) and (6)(b) section 98 of ITA 2007 applies for determining when an event occurs.

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## 10 Property loss relief against general income: tax-generated agricultural expenses

- (1) Chapter 4 of Part 4 of ITA 2007 (losses from property businesses) is amended as follows.
- (2) In section 117(3) (overview of Chapter), for “section 127A” substitute “sections 127A and 127B”.
- (3) In section 120(7) (deduction of property losses from general income), at the end insert “and section 127B (no relief for tax-generated agricultural expenses)”.
- (4) After section 127A insert—

### “127B No relief for tax-generated agricultural expenses

- (1) This section applies if—
    - (a) in a tax year a person makes a loss in a UK property business or overseas property business (whether carried on alone or in partnership),
    - (b) the business has a relevant agricultural connection for the purposes of section 120 (see section 123(3) to (7)), and
    - (c) any allowable agricultural expenses deducted in calculating the loss arise directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
  - (2) No property loss relief against general income may be given to the person for so much of the applicable amount of the loss as is attributable to expenses falling within subsection (1)(c).
  - (3) For the purposes of subsection (2), the applicable amount of the loss is to be treated as attributable to expenses falling within subsection (1)(c) before anything else.
  - (4) In subsection (1) “relevant tax avoidance arrangements” means arrangements—
    - (a) to which the person is a party, and
    - (b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability by means of property loss relief against general income.
  - (5) In subsection (4) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
  - (6) In this section “the applicable amount of the loss” has the meaning given by section 122 and “allowable agricultural expenses” has the meaning given by section 123.”
- (5) The amendments made by this section have effect in relation to expenses arising directly or indirectly in consequence of, or otherwise in connection with—
- (a) arrangements which are entered into on or after 13 March 2012, or
  - (b) any transaction forming part of arrangements which is entered into on or after that date.

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- (6) But those amendments do not have effect where the arrangements are, or any such transaction is, entered into pursuant to an unconditional obligation in a contract made before that date.
- (7) “An unconditional obligation” means an obligation which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

## **11 Gains from contracts for life insurance etc**

- (1) In Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc), after section 473 insert—

### **“473A Connected policies or contracts treated as single policy or contract**

- (1) Policies or contracts which are connected with each other are treated as a single policy or contract for the purposes of this Chapter.
- (2) A policy or contract is “connected” with another policy or contract if—
  - (a) they meet the condition in subsection (3) in relation to each other, and
  - (b) the terms on which either of them is issued are significantly more or less favourable than would reasonably be expected if the other were ignored or any policy or contract meeting the condition in that subsection in relation to either of them were ignored.
- (3) A policy or contract meets the condition in this subsection in relation to another policy or contract if—
  - (a) they are at any time simultaneously in force, and
  - (b) either of them is issued with reference to the other or with a view to enabling the other to be issued on particular terms or facilitating its being issued on those terms.
- (4) If—
  - (a) there is a policy or contract (“A”) with which two or more other policies or contracts are connected as a result of subsection (2), but
  - (b) the other policies or contracts are not connected with each other as a result of that subsection,

A and the other policies or contracts are (as a result of this subsection) to be regarded as “connected” with each other.”

- (2) In section 491(2) of that Act (calculating gains from contracts for life insurance etc: general rules), in the definition of “PG”, at the end insert “ but only in so far as those gains have been, or fall to be, taken into account in calculating the total income of a person as a result of this Chapter or Chapter 2 of Part 13 of ITA 2007 ”.
- (3) In section 552 of ICTA (information: duty of insurers), for subsection (13) substitute—
  - “(13) For the purposes of this section—
    - (a) section 491(2) of ITTOIA 2005 is taken to have effect as if, in the definition of “PG”, the words from “but” to the end were omitted, and
    - (b) no account is to be taken of the effect of section 541A of that Act.”
- (4) The amendments made by this section have effect in relation to—

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- (a) any policy issued in respect of an insurance made on or after 21 March 2012, or
  - (b) any contract made on or after that date.
- (5) The amendments made by this section also have effect in the case of any insurance or contract made before 21 March 2012 if on or after that date—
- (a) the policy or contract is varied with the result that there is an increase in the benefits secured,
  - (b) there is an assignment of rights, or a share of the rights, conferred by the policy or contract (whether or not for money's worth), or
  - (c) some or all of the rights conferred by the policy or contract become held as security for a debt.
- (6) For the purposes of subsection (5)(a)—
- (a) an exercise of rights conferred by a policy or contract is to count as a variation of the policy or contract, and
  - (b) the reference to an increase in the benefits secured by a policy or contract includes an increase in the benefits secured by another policy or contract with which the policy or contract is connected (within the meaning given by section 473A of ITTOIA 2005, as inserted by subsection (1)).

## **12 Settlements: income originating from settlors other than individuals**

- (1) ITTOIA 2005 is amended as follows.
- (2) In section 627 (income where settlor retains an interest: exceptions), at the end insert—
- “(4) The rule in section 624(1) does not apply in relation to income which—
- (a) arises under a settlement, and
  - (b) originates from any settlor who was not an individual.”
- (3) In section 645 (property or income originating from settlor), in subsection (2), for “section 644” substitute “sections 627 and 644”.
- (4) The amendments made by this section have effect in relation to income arising on or after 21 March 2012.

### *Reliefs*

## **13 Champions League final 2013**

- (1) No liability to income tax arises in respect of any income from the 2013 Champions League final that arises to a person who is—
- (a) an employee or contractor of an overseas team that competes in the final, and
  - (b) non-UK resident at the time of the final.
- (2) The reference in subsection (1) to income from the 2013 Champions League final is to income related to duties or services performed by the person in the United Kingdom in connection with the final.
- (3) The exemption under subsection (1) does not apply to—



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- (a) income that arises as a result of a contract entered into after the final, or of any amendment, after the final, of a contract entered into before the end of the final, or
  - (b) income that is the subject of tax avoidance arrangements.
- (4) Income is the subject of tax avoidance arrangements if—
- (a) arrangements have been made which, but for subsection (3)(b), would result in a person obtaining an exemption under subsection (1) for the income, and
  - (b) those arrangements, or other arrangements of which they form part, have as their main purpose, or one of their main purposes, the obtaining of that exemption.
- (5) Section 966 of ITA 2007 (deduction of sums representing income tax) does not apply to any payment or transfer which gives rise to income benefiting from the exemption under subsection (1).
- (6) In this section—
- “the 2013 Champions League final” means the final of the UEFA Champions League 2012/2013 competition held in England in 2013;
  - “contractor”, in relation to an overseas team, means an individual who is not an employee of the team but who performs services for the team—
    - (a) under the terms of a contract with the team, or
    - (b) under the terms of a contract, or that individual's employment, with a company which is a member of the same group of companies as the team (within the meaning given by section 152 of CTA 2010);
  - “employee” and “employment” are to be read in accordance with section 4 of ITEPA 2003;
  - “income” means employment income or profits of a trade, profession or vocation (including profits treated as arising as a result of section 13 or 14 of ITTOIA 2005);
  - “overseas team” means a football club which is not a member of the Football Association, the Scottish Football Association, the Football Association of Wales or the Irish Football Association.

**Modifications etc. (not altering text)**

**C1** S. 13 modified (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 45 para. 159](#)

**14 Cars: security features not to be regarded as accessories**

- (1) ITEPA 2003 is amended as follows.
- (2) In section 125 (meaning of “accessory” and related terms) after subsection (3) insert—
  - “(3A) Subsection (2) needs to be read with section 125A (security features not to be regarded as accessories).”
- (3) After that section insert—

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### **“125A Security features not to be regarded as accessories**

- (1) This section applies where a car made available to an employee has a relevant security feature.
- (2) The relevant security feature is not an accessory for the purposes of this Chapter if it is provided in order to meet a threat to the employee's personal physical security which arises wholly or mainly because of the nature of the employee's employment.
- (3) In this section “relevant security feature” means—
  - (a) armour designed to protect the car's occupants from explosions or gunfire,
  - (b) bullet-resistant glass,
  - (c) any modification to the car's fuel tank designed to protect the tank's contents from explosions or gunfire (including by making the tank self-sealing), and
  - (d) any modification made to the car in consequence of anything which is a relevant security feature by virtue of paragraph (a), (b) or (c).
- (4) The Treasury may by regulations amend the definition of “relevant security feature” in subsection (3).”
- (4) In Part 2 of Schedule 1 (index of defined expressions), in the entry for “accessory”, in the second column for “section 125(2)” substitute “ sections 125(2) and 125A(2) ”.
- (5) The amendments made by this section have effect for the tax year 2011-12 and subsequent tax years.

### **15 Termination payments to MPs ceasing to hold office**

- (1) In section 291 of ITEPA 2003 (exemptions: termination payments to MPs and others ceasing to hold office), for subsection (2)(a) substitute—
  - “(a) made under section 5(1) of the Parliamentary Standards Act 2009 in connection with a person's ceasing to be a member of the House of Commons,”.
- (2) The amendment made by this section has effect in relation to grants and payments made on or after 1 April 2012.

### **16 Employment income exemptions: armed forces**

- (1) Chapter 8 of Part 4 of ITEPA 2003 (exemptions: special kinds of employees) is amended as follows.
- (2) In section 297A (exemption for Operational Allowance), in subsection (2), for “by the Secretary of State” substitute “ under a Royal Warrant made under section 333 of the Armed Forces Act 2006 ”.
- (3) In section 297B (exemption for Council Tax Relief), in subsection (2), for “by the Secretary of State” substitute “ under a Royal Warrant made under section 333 of the Armed Forces Act 2006 ”.

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(4) After that section insert—

**“297C Armed forces: Continuity of Education Allowance**

- (1) No liability to income tax arises in respect of payments of the Continuity of Education Allowance to or in respect of members of the armed forces of the Crown during their employment under the Crown or after their deaths.
  - (2) The Continuity of Education Allowance is an allowance designated as such under a Royal Warrant made under section 333 of the Armed Forces Act 2006.”
- (5) The amendments made by this section have effect in relation to payments made on or after 6 April 2012.

*Other provisions*

**17 Taxable benefits: “the appropriate percentage” for cars for 2014-15**

- (1) In section 139 of ITEPA 2003 (car with a CO<sub>2</sub> emissions figure: the appropriate percentage), for subsections (2) and (3) substitute—
  - “(2) If the car's CO<sub>2</sub> emissions figure is less than the relevant threshold for the year, the appropriate percentage for the year is—
    - (a) if the car's CO<sub>2</sub> emissions figure for the year does not exceed 75 grams per kilometre driven, 5%, and
    - (b) otherwise, 11%.
  - (3) If the car's CO<sub>2</sub> emissions figure is equal to the relevant threshold for the year, the appropriate percentage for the year is 12% (“the threshold percentage”).”
- (2) The amendment made by this section has effect for the tax year 2014-15 and subsequent tax years.

**18 Qualifying time deposits**

- (1) In section 866 of ITA 2007 (qualifying time deposits), in subsection (1), after “deposit” insert “ made before 6 April 2012 ”.
- (2) The amendment made by this section is treated as having come into force on 6 April 2012.

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## CHAPTER 3

### CORPORATION TAX: GENERAL

#### *Support for business*

#### **19 Profits arising from the exploitation of patents etc**

Schedule 2 contains provision about the treatment for corporation tax purposes of profits arising from the exploitation of patents etc.

#### **20 Relief for expenditure on R&D**

Schedule 3 contains provision about corporation tax relief for expenditure on research and development.

#### **21 Real estate investment trusts**

Schedule 4 amends Part 12 of CTA 2010 (real estate investment trusts).

#### *Anti-avoidance*

#### **<sup>F1</sup>22 Treatment of the receipt of manufactured overseas dividends**

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#### **Textual Amendments**

**F1** S. 22 omitted (1.1.2014) by virtue of [Finance Act 2013 \(c. 29\)](#), Sch. 1 para. 52, [Sch. 29 para. 50\(2\)](#)

#### **23 Loan relationships: debts becoming held by connected company**

(1) Chapter 6 of Part 5 of CTA 2009 (loan relationships: connected companies and impairment losses and releases of debt) is amended as follows.

(2) In section 362 (parties becoming connected where creditor's rights subject to impairment adjustment)—

(a) in subsection (1)—

(i) omit paragraph (c) (impairment in pre-connection carrying value of creditor's loan relationship), and

(ii) omit the “and” before that paragraph and, at the end of paragraph (a), insert “and”;

(b) for subsections (3) and (4) substitute—

“(3) The amount treated as released is the amount (if any) by which the pre-connection carrying value in D's accounts exceeds the pre-connection carrying value in C's accounts.

(4) In subsection (3)—

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“the pre-connection carrying value in D's accounts” means the amount that would be the carrying value of the liability representing the loan relationship in D's accounts if a period of account had ended immediately before C and D became connected, and

“the pre-connection carrying value in C's accounts” means—

- (a) in any case where C was a party to the loan relationship as creditor on the last day of the period of account ending immediately before the one in which C and D became connected, the cost of the asset representing the loan relationship which would be given on that day on an amortised cost basis of accounting, and
  - (b) in any other case, the amount or value of any consideration given by C for the acquisition of the asset representing the loan relationship.”, and”
- (c) in subsection (5)—
- (i) in the opening words, for “the carrying value is determined taking no account of—” substitute “ no account is to be taken of— ”,
  - (ii) at the end of paragraph (a) insert “ or ”, and
  - (iii) omit paragraph (c) (together with the “or” before that paragraph), and
- (d) in the heading, at the end insert “ **etc** ”.
- (3) After section 363 insert—

#### **“363A Arrangements for avoiding section 361 or 362**

- (1) This section applies in any case where arrangements are entered into and the main purpose, or one of the main purposes, of any party in entering into them (or any part of them) is—
    - (a) to avoid an amount being treated as released under section 361 or 362, or
    - (b) to reduce the amount which is treated as released under section 361 or 362.
  - (2) The arrangements (or part of the arrangements) are not to achieve that effect (so that an amount, or a greater amount, falls to be treated as released under section 361 or 362).
  - (3) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (4) The amendments made by subsection (2) have effect as follows—
- (a) the amendments made by paragraphs (a), (b) and (d) have effect in relation to any case where the companies become connected on or after 27 February 2012, but if the companies become connected on or after that date but before 1 April 2012 section 362 of CTA 2009 has effect as if the following were substituted for subsections (3) and (4) of that section—
    - “(3) The amount treated as released is whichever is the greater of the following amounts—

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- (a) the amount (if any) that the pre-connection carrying value in C's accounts would have been adjusted for impairment if a period of account had ended immediately before the companies became connected, and
  - (b) the amount (if any) by which the pre-connection carrying value in D's accounts exceeds the pre-connection carrying value in C's accounts.
- (4) In subsection (3) “the pre-connection carrying value”, in relation to C's accounts or D's accounts, means the amount that would be the carrying value of the asset or liability representing the loan relationship in the accounts if a period of account had ended immediately before the companies became connected.”, and”
- (b) the amendments made by paragraph (c) have effect in relation to any case where the companies become connected on or after 1 April 2012, and section 363 of CTA 2009 applies for the purposes of this subsection as it applies for the purposes of sections 361 to 362 of that Act.
- (5) The amendment made by subsection (3) has effect in relation to—
- (a) arrangements entered into on or after 27 February 2012, or
  - (b) arrangements entered into before that date where the amount is treated as released, or would have been treated as released, on or after that date.
- (6) But subsection (5)(b) does not apply if the amount is treated as released, or would have been treated as released, pursuant to an unconditional obligation in a contract made before 27 February 2012.
- (7) An “unconditional” obligation is one which may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).
- (8) The conditions in section 361(1)(a) to (c) of CTA 2009 are treated as met (and the remaining provisions of that section have effect accordingly) in any case where—
- (a) arrangements are entered into by any party at any time,
  - (b) directly or indirectly in consequence of, or otherwise in connection with, those arrangements a company (“C”) becomes a party to a loan relationship as creditor,
  - (c) the time at which C becomes a party to the loan relationship falls on or after 1 December 2011 but before 27 February 2012,
  - (d) directly or indirectly in consequence of, or otherwise in connection with, those arrangements C subsequently becomes connected with another company (“D”) which is a party to the loan relationship as debtor, and
  - (e) that subsequent time falls before 27 February 2012.
- (9) For the purposes of subsection (8)—
- (a) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
  - (b) the reference to C becoming connected with D is to be read in accordance with section 363 of CTA 2009.
- (10) Subsections (8) and (9) are to have effect as if they were contained in Part 5 of CTA 2009 (and the cases in which section 361 of CTA 2009 has effect in accordance with subsection (8) include any case where C or D is a member of a firm which becomes or is a party to the loan relationship and in that case references to C or D (other than

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references to the connection which C or D has with a company) are references to the firm).

- (11) For the purpose of applying section 361 of CTA 2009 in accordance with subsection (8) no account is to be taken of anything done on or after 27 February 2012.
- (12) If section 361 of CTA 2009 has effect in accordance with subsection (8), section 362 of that Act does not apply.

## **24 Companies carrying on businesses of leasing plant or machinery**

- (1) CTA 2010 is amended as follows.
- (2) In section 385 (sales of lessors: no carry back of the expense)—
- (a) for subsections (2) and (3) substitute—
- “(2) No part of a loss may be deducted under section 37(3)(b) (relief for trade losses against total profits of earlier accounting periods) from so much of the company's total profits as derive from the income.
- (3) For the purpose of determining how much of those profits derive from the income, those profits are to be calculated on the basis that the income is the final amount to be added.”, and
- (b) in the heading, for “**No carry back of the expense**” substitute “**No carry back of loss against the income**”.
- (3) In section 392 (sales of lessors: “relevant change in relationship”), at the end insert “or section 394ZA (company joining tonnage tax group)”.
- (4) After section 394 insert—

### **“394ZA Company joining tonnage tax group**

There is a relevant change in the relationship between A and a principal company of A on any day if—

- (a) on that day A becomes a member of a tonnage tax group for the purposes of Schedule 22 to FA 2000 without entering tonnage tax on that day, or
- (b) the day ends immediately before the day on which, for the purposes of that Schedule, A both becomes a member of a tonnage tax group and enters tonnage tax.”
- (5) In section 394A (sales of lessors: “qualifying change of ownership”)—
- (a) the existing text becomes subsection (1), and
- (b) after that subsection insert—
- “(2) If the qualifying change of ownership would (but for this subsection) occur on any day as a result of—
- (a) section 393 or 394ZA, or
- (b) section 394 or 394ZA,
- it is treated instead for the purposes of the sales of lessors Chapters as occurring on that day solely as a result of section 394ZA.”
- (6) In section 427 (sales of lessors: no carry back of the expense)—

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- (a) for subsections (2) and (3) substitute—
- “(2) No part of a loss may be deducted under section 37(3)(b) (relief for trade losses against total profits of earlier accounting periods) from so much of the company's total profits as derive from the income.
- (3) For the purpose of determining how much of those profits derive from the income, those profits are to be calculated on the basis that the income is the final amount to be added.”, and
- (b) in the heading, for “**No carry back of the expense**” substitute “ **No carry back of loss against the income** ”.
- (7) In section 950 (transfers of trade without a change of ownership: transfers of trade involving business of leasing plant or machinery), after subsection (3) insert—
- “(3A) For the purposes of subsection (2)(a) the principal company or companies of the predecessor immediately before the transfer are not to be regarded as the same as the principal company or companies of the successor immediately afterwards (so far as they would otherwise have been so regarded) if—
- (a) there is a relevant change in the relationship between the successor and a principal company of the successor within section 394ZA (company joining tonnage tax group), and
- (b) that change occurs on or before the transfer day (whether the change occurs on or after 21 March 2012 or before that date).”
- (8) In Schedule 22 to FA 2000 (tonnage tax), after paragraph 79 insert—
- “79A (1) This paragraph applies if—
- (a) a balancing charge under this Part of this Schedule arises to the company on the disposal of any plant or machinery, and
- (b) the plant or machinery is taken into account in calculating income that the company is treated as receiving under section 383 or 417 of the Corporation Tax Act 2010 (sales of lessors) as a result of section 394ZA of that Act (company joining tonnage tax group).
- (2) The balancing charge is to be reduced by the relevant part of the sales of lessors expense so far as relief has not previously been given for that expense (whether under this sub-paragraph or otherwise).
- (3) “The sales of lessors expense” means—
- (a) the expense which the company is treated as incurring under section 383 or 417 of the Corporation Tax Act 2010 as a result of section 394ZA of that Act, or
- (b) if section 386 or 419 of that Act applies or has applied, the expense which derives from the expense within paragraph (a).
- (4) If the sales of lessors expense is incurred at a time when the company is in tonnage tax, the “relevant part” of that expense is so much of it as, on a just and reasonable basis, is attributable to the matters set out in paragraph 56(1)(a) or (b).
- (5) If—



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- (a) the sales of lessors expense is not incurred at a time when the company is in tonnage tax,
  - (b) that expense is taken into account in calculating a loss made by the company in a trade, and
  - (c) the loss is one to which paragraph 56 applies,the “relevant part” of the sales of lessors expense is so much of the apportioned loss as, on a just and reasonable basis, is derived from the sales of lessors expense.
- (6) The reference here to the apportioned loss is to the loss that is attributable to the matters set out in paragraph 56(1)(a) or (b).”
- (9) The amendments made by subsections (2) and (6) have effect—
  - (a) where the income arises as a result of a company becoming a member of a tonnage tax group on or after 21 March 2012 and entering tonnage tax at the same time,
  - (b) where the income arises as a result of a company becoming a member of a tonnage tax group on or after 23 April 2012 without entering tonnage tax at the same time, or
  - (c) where the relevant day is on or after 21 March 2012 (in any case not within paragraph (a) or (b)).
- (10) The amendments made by subsections (3) to (5) and (8) have effect—
  - (a) where a company becomes a member of a tonnage tax group on or after 21 March 2012 and enters tonnage tax at the same time, or
  - (b) where a company becomes a member of a tonnage tax group on or after 23 April 2012 without entering tonnage tax at the same time.
- (11) The amendment made by subsection (7) has effect—
  - (a) except in a case within paragraph (b), where the transfer day is on or after 21 March 2012, and
  - (b) in a case where the relevant change in the relationship occurs as a result of a company becoming a member of a tonnage tax group without entering tonnage tax at the same time, where the transfer day is on or after 23 April 2012.

### *Insurance*

## **25 Corporate members of Lloyd's: stop-loss insurance and quota share contracts**

- (1) In section 225 of FA 1994 (corporate members of Lloyd's: stop-loss and quota share insurance), after subsection (3B) insert—
  - “(3C) Subsection (3D) applies to any premium which is payable by a corporate member under a stop-loss insurance taken out in respect of its underwriting business and in relation to which section 220(2)(a) does not apply.
  - (3D) The premium is to be treated for the purposes of the Corporation Tax Acts—
    - (a) as an amount that arises to the member directly from its membership of the syndicate or syndicates in relation to the activities of which the stop-loss insurance was taken out, and

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- (b) as if it were payable in the underwriting year in which the profits or losses arising to the member directly from its membership of the syndicate or syndicates concerned are declared.
- (3E) If a premium is payable under a stop-loss insurance in respect of two or more underwriting years, the amount of the premium treated, as a result of subsection (3D)(b), as payable in each of those years is to be determined on a just and reasonable basis.
- (3F) If—
- (a) a corporate member enters into a quota share contract, and
  - (b) the main purpose, or one of the main purposes, of entering into it was to secure that amounts payable by the member under the contract were not dealt with on the basis set out in subsection (3G),
- the contract is treated for the purposes of subsections (3C) to (3E) as if it were a stop-loss insurance (and, accordingly, the amounts payable under it are treated for those purposes as premiums).
- (3G) Amounts are dealt with on the basis set out in this subsection if they are treated as payable in the underwriting year in which the profits or losses arising to a corporate member directly from its membership of one or more syndicates are declared.”
- (2) The amendment made by this section has effect in relation to—
- (a) any stop-loss insurance (as defined by section 230(1) of FA 1994) taken out on or after 6 December 2011, or
  - (b) any quota share contract (as defined by section 225(4) of FA 1994) entered into on or after that date.
- (3) If before 6 December 2011 a corporate member enters into a multi-year contract—
- (a) insurance is to be regarded for the purposes of subsection (2)(a) as taken out on the anniversary date of the contract which falls on or after the day on which this Act is passed, and
  - (b) premiums payable under the insurance in respect of an underwriting year beginning on or after that day are premiums falling to be dealt with in accordance with the amendment made by this section.
- (4) For this purpose—
- “multi-year contract” means a contract which (unless cancelled) operates in respect of successive underwriting years, and
- “the anniversary date of the contract” means the date which is the anniversary of the date on which the contract was entered into.
- (5) If—
- (a) before 6 December 2011 a corporate member enters into a contract for insurance in respect of an underwriting year, and
  - (b) on or after 6 December 2011 the contract is renewed in respect of a further underwriting year (whether as a result of the exercise of an option conferred by the contract or otherwise),
- insurance is to be regarded for the purposes of subsection (2)(a) as taken out on the date of the renewal.

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## **26 Abolition of relief for equalisation reserves: general insurers**

- (1) Sections 444BA to 444BD of ICTA (equalisation reserves) are repealed.
- (2) In consequence of the repeal of those sections, omit—
  - (a) in TMA 1970, in the second column of the table in section 98, the entry relating to regulations under section 444BB of ICTA and the entry relating to regulations under section 444BD of ICTA,
  - (b) in FA 1996, section 166 and Schedule 32,
  - (c) in FA 2003, in section 153(1)(a), the reference “444BB(3)(b),”,
  - (d) in CTA 2009, paragraphs 155 and 156 of Schedule 1, and
  - (e) in TIOPA 2010, paragraph 9 of Schedule 8.
- (3) The amendments made by this section have effect in relation to accounting periods ending on or after such day (“the specified day”) as is specified in an order made by the Treasury (and different days may be specified for different cases).
- (4) In the case of an insurance company's existing equalisation or equivalent reserve—
  - (a) an amount equal to one-sixth of the amount of the reserve is to be treated as a receipt of the company's business in the calendar year in which the specified day falls, and
  - (b) an amount equal to one-sixth of the amount of the reserve is to be treated as a receipt of the company's business in each of the next five calendar years.
- (5) If there are different accounting periods falling in a calendar year, a receipt arising as a result of subsection (4) is apportioned between those periods in proportion to the number of days of the calendar year falling in those periods.
- (6) If—
  - (a) the company ceases to carry on the business in a calendar year, and
  - (b) an amount would otherwise have been treated as a result of subsection (4) as a receipt of the company's business in a later calendar year,any amount within paragraph (b) is treated instead as a receipt of the company's business in the accounting period in which the company ceased to carry on the business.
- (7) For the purposes of this section—
  - (a) “equalisation reserve”, in relation to an insurance company, means the equalisation reserve in respect of a business which the company was required, by virtue of equalisation reserves rules (within the meaning of section 444BA of ICTA), to maintain,
  - (b) “equivalent reserve” means an equivalent reserve (within the meaning of section 444BD of ICTA) in relation to which section 444BA of ICTA applied,
  - (c) a company's “existing” equalisation or equivalent reserve means the equalisation or equivalent reserve as it stood immediately before the first accounting period of the company (“the relevant accounting period”) in relation to which the amendments made by this section have effect (but see subsection (8)), and
  - (d) references in this section to the company's business are to the business in respect of which the equalisation or equivalent reserve was maintained.
- (8) If—

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- (a) an insurance company has made an election under section 444BA(4) of ICTA in relation to an accounting period ending before the specified day, and
- (b) an amount would, but for this section, have been carried forward to the relevant accounting period of the company as a deductible amount,

that amount is not to be carried forward to that period as a deductible amount but is instead to be deducted from the amount of the equalisation or equivalent reserve as it stood immediately before that period.

- (9) References in this section to section 444BA of ICTA include that section as modified by regulations made under section 444BB or 444BC of that Act.

## **27 Election to accelerate receipts under s.26(4)**

- (1) An insurance company may make an election in relation to a calendar year (“the relevant year”) for all of the amounts that would, as a result of section 26(4), otherwise be treated as arising in later calendar years as receipts of a business carried on by the company to be treated instead as receipts of the business arising in the relevant year.
- (2) An election under this section—
  - (a) must be made by notice to an officer of Revenue and Customs within 2 years from the end of the relevant year, and
  - (b) is irrevocable.
- (3) A company which makes an election under section 29 as the transferor or the transferee may make an election under this section but not in relation to the calendar year in which the transfer takes place.

## **28 Deemed receipts under s.26(4): double taxation relief**

- (1) This section applies if—
  - (a) a receipt is treated as arising to an insurance company's business in an accounting period as a result of section 26(4),
  - (b) the company carries on business through a permanent establishment outside the United Kingdom by reference to which double taxation relief is afforded in respect of any income or gains, and
  - (c) the permanent establishment is one in relation to which regulation 10(2) of the Insurance Companies (Reserves) (Tax) Regulations 1996 previously applied.
- (2) For the purpose of calculating the profits or losses by reference to which double taxation relief is afforded for the accounting period, only the appropriate proportion (if any) of the receipt is to be taken into account.
- (3) The appropriate proportion of the receipt is—
  - (a) equal to the mean of each proportion found for each relevant period (if any), or
  - (b) equal to such other proportion as the company may determine on a just and reasonable basis.
- (4) For the purposes of subsection (3)(a) a proportion for a relevant period is the proportion which the PE's premium income for the period bears to the company's premium income for the period.
- (5) For the purposes of subsections (3)(a) and (4)—

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“the company's premium income”, in relation to a relevant period, means the amount of net premiums written by reference to which the calculation under section 444BA(2)(a) or (b) of ICTA was made for the period,

“the PE's premium income”, in relation to a relevant period, means so much of the company's premium income for the period as is attributable to the permanent establishment, and

a “relevant period” means an accounting period of the company in relation to which each of the following conditions is met—

- (a) section 444BA of ICTA has applied in relation to the accounting period,
- (b) the business mentioned in subsection (1)(a) has been carried on through the permanent establishment in the accounting period, and
- (c) the accounting period is the company's last accounting period in relation to which section 444BA of ICTA applied or is one that falls wholly or partly in the period of six years ending with the day on which that last accounting period ended.

(6) In subsection (5)—

- (a) “net premiums written” means gross premiums written net of reinsurance premiums payable under reinsurance ceded, and
- (b) references to section 444BA of ICTA include that section as modified by regulations made under that Act.

## **29 Transfer of whole or part of the business**

(1) If—

- (a) an insurance company carries on a business,
- (b) amounts fall to be treated as receipts of the business as a result of section 26(4) (“deemed receipts”), and
- (c) under an insurance business transfer scheme there is a transfer of the whole or part of the business to another insurance company within the charge to corporation tax,

the transferor and the transferee may jointly make an election for those deemed receipts to be allocated between them in accordance with the following provisions.

(2) If the transfer is a transfer of the whole of the business or substantially the whole of the business—

- (a) section 26(6) does not apply in relation to the transferor (if it would otherwise have applied),
- (b) the deemed receipt which, on the assumption that there had been no transfer, would have arisen in the transfer year is apportioned between the transferor and the transferee in accordance with subsection (5), and
- (c) the remaining deemed receipts (if any) which, on that assumption, would have arisen in subsequent calendar years are treated as receipts of the transferee (and not as receipts of the transferor).

(3) If the transfer is a transfer of a part of the business and subsection (2) does not apply—

- (a) the appropriate portion of the deemed receipt arising in the transfer year is apportioned between the transferor and the transferee in accordance with subsection (5), and

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- (b) the appropriate portions of the remaining deemed receipts (if any) are treated as receipts of the transferee (and the receipts of the transferor are reduced accordingly).
- (4) The appropriate portion of a deemed receipt is to be determined on a just and reasonable basis.
- (5) An apportionment under subsection (2)(b) or (3)(a) is to be made in proportion to the number of days of the calendar year falling before the day of the transfer and the number of days of the calendar year falling on or after the day of transfer.
- (6) A deemed receipt which is treated as a receipt of the transferee as a result of this section is treated as a receipt of the business of the transferee which consists of or includes the transferred business, and, accordingly, section 26(4) and (6) have effect in relation to the transferee—
  - (a) as if references to the company were references to the transferee, and
  - (b) as if references to the business were references to the business of the transferee which consists of or includes the transferred business.
- (7) An election under this section—
  - (a) must be made by notice to an officer of Revenue and Customs within 28 days from the end of the day on which the transfer takes place,
  - (b) must be accompanied by an explanation as to the way in which the transferor and the transferee have determined any issue falling to be determined for the purposes of this section, and
  - (c) is irrevocable.
- (8) In this section—
  - “the transferred business” means so much of the business as is transferred to the transferee, and
  - “the transfer year” means the calendar year in which the transfer takes place.
- (9) If a company makes an election under this section as the transferee, this section has effect for the purposes of any subsequent elections made by the company under this section as the transferor as if references to the business were references to the activities in respect of which deemed receipts are treated as arising to it.

### **30 Abolition of relief for equalisation reserves: Lloyd's corporate members etc**

- (1) Regulations made by the Treasury under section 47 of FA 2009 (equalisation reserves for Lloyd's corporate and partnership members) that revoke previous regulations made under that section may include provision corresponding to the provision made by sections 26(4) to (8) and 27, subject to such modifications as may be made in the regulations.
- (2) Section 47 of FA 2009 is repealed.
- (3) That repeal has effect in relation to accounting periods ending on or after such day (“the specified day”) as is specified in an order made by the Treasury (and different days may be specified for different cases).
- (4) Subsections (2) and (3) are not to affect the operation of any transitional or saving provision included (whether as a result of this section or otherwise) in regulations

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made under section 47 of FA 2009 that revoke previous regulations made under that section so far as the provision remains capable of having effect in relation to times falling on or after the specified day.

### *Miscellaneous*

## **31 Tax treatment of financing costs and income**

Schedule 5 contains provision about the tax treatment of financing costs and income.

## **32 Group relief: meaning of “normal commercial loan”**

- (1) CTA 2010 is amended as follows.
- (2) In section 162(2)(c) (meaning of “normal commercial loan”), after “securities in” insert “ a quoted unconnected company (see section 164(2A)) or in ”.
- (3) In section 164 (sections 160 and 162: supplementary), in subsection (2)(c), after “securities in” insert “ a quoted unconnected company (see subsection (2A)) or in ”.
- (4) After subsection (2) of that section insert—

“(2A) For the purposes of this section and section 162 a company is a quoted unconnected company if (and only if)—

  - (a) its ordinary shares are listed on a recognised stock exchange, and
  - (b) it is not connected with the relevant company.”
- (5) In subsection (4) of that section—
  - (a) for “If the candidate company's” substitute “ In the case of a company whose ”, and
  - (b) for “subsection (3)(c) is” substitute “ subsections (2A)(a) and (3)(c) are ”.
- (6) In subsection (5) of that section, for “subsections (3) and (4)” substitute “ this section ”.
- (7) The amendments made by this section have effect in relation to loans made on or after 21 March 2012.

## **33 Company distributions**

- (1) Part 23 of CTA 2010 (company distributions) is amended as follows.
- (2) Section 1002 (exceptions for certain transfers of assets or liabilities between a company and its members) is repealed.
- (3) In section 1020 (transfers of assets or liabilities treated as distributions)—
  - (a) in subsection (2), omit from “But” to the end, and
  - (b) after that subsection insert—

“(2A) But the company is not treated as making a distribution under subsection (2) if the transfer of assets or liabilities—

    - (a) is a distribution by virtue of paragraph B in section 1000(1),
    - or

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- (b) would be such a distribution in the absence of subparagraph (a) of that paragraph (distribution representing repayment of capital on the shares).”
- (4) Section 1021 (transfers of assets or liabilities treated as distributions: exceptions) is repealed.
- (5) In consequence of the repeal made by subsection (2)—
- (a) omit section 194(2) of CTA 2010,
  - (b) in section 998(3) of that Act, for “1002” substitute “ 1003 ”,
  - (c) in section 1001 of that Act, in the third column of the table, omit “Section 1002 (exception for certain transfers of assets and liabilities)”, and
  - (d) omit paragraph 1(2) of Schedule 3 to F(No.3)A 2010.
- (6) The amendments made by this section have effect in relation to distributions made on or after the day on which this Act is passed.

## CHAPTER 4

### CAPITAL GAINS

#### **34 Annual exempt amount**

- (1) TCGA 1992 is amended as follows.
- (2) In section 3 (annual exempt amount), for the figure specified in subsection (2) substitute “ £10,600 ”.
- (3) In that section—
- (a) in each of subsections (3), (3A), (3B) and (4), for “RPI” substitute “ CPI ”, and
  - (b) in subsection (3A), for “retail prices index” substitute “ consumer prices index ”.
- (4) In section 288 (interpretation), after subsection (2) insert—
- “(2A) In this Act “consumer prices index” means the all items consumer prices index published by the Statistics Board.”
- (5) The amendment made by subsection (2) has effect for the tax year 2012-13 and subsequent tax years.
- (6) Section 3(3) of TCGA 1992 (indexation) does not apply in relation to the tax year 2012-13.
- (7) The amendments made by subsections (3) and (4) have effect for the tax year 2013-14 and subsequent tax years.

#### **35 Foreign currency bank accounts**

- (1) TCGA 1992 is amended as follows.
- (2) In section 13 (attribution of gains to members of non-resident companies), in subsection (5), omit paragraph (c).



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(3) In section 251 (debts: general provisions), after subsection (5) insert—

“(5A) References in this section to the disposal of a debt include the disposal of an interest in a debt (and, in the case of an interest in a debt, the reference in subsection (3) to the amount of the debt is to the amount of the person's interest in the debt).”

(4) For section 252 substitute—

**“252 Foreign currency bank accounts**

(1) Section 251(1) does not apply in relation to a gain accruing to a person on a disposal of a foreign currency debt (or an interest in such a debt) unless that person is—

- (a) an individual,
- (b) the trustees of a settlement, or
- (c) the personal representatives of a deceased person.

(2) A “foreign currency debt” is a debt—

- (a) owed by a bank in a currency other than sterling, and
- (b) represented by a sum standing to the credit of an account-holder in an account in that bank.”

(5) Omit section 252A and Schedule 8A (foreign currency bank accounts).

(6) The amendments made by this section have effect in relation to disposals occurring on or after 6 April 2012.

**36 Collective investment schemes: chargeable gains**

(1) TCGA 1992 is amended as follows.

(2) In section 99A(2) (treatment of umbrella schemes), after “subsection (1)” insert “ and section 103C ”.

(3) After section 103B insert—

**“103C Power to make regulations about collective investment schemes**

(1) The Treasury may by regulations make provision about the treatment of participants in collective investment schemes for the purposes of this Act.

(2) The regulations may, in particular, specify descriptions of collective investment scheme in relation to which they are to apply.

(3) Regulations under this section may make different provision for different cases or different purposes.

(4) Regulations under this section—

- (a) may modify this Act or any other enactment or instrument (whenever passed or made), and
- (b) may include incidental, consequential, supplementary or transitional provision.

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- (5) A statutory instrument containing regulations under this section must be laid before the House of Commons after being made.
- (6) The regulations cease to have effect at the end of the period of 40 days beginning with the day on which the instrument is made unless before the end of that period the instrument is approved by a resolution of the House of Commons.
- (7) After an instrument containing regulations under this section has been approved under subsection (6), subsections (5) and (6) do not apply to any subsequent such instrument (and accordingly section 287(3) applies to any such instrument).
- (8) If regulations cease to have effect as a result of subsection (6), that does not—
  - (a) affect anything previously done under the regulations, or
  - (b) prevent the making of new regulations to the same or similar effect.
- (9) In calculating the period of 40 days for the purposes of subsection (6), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than 4 days.
- (10) In this section—

“modify” includes amend, repeal or revoke, and

“participant”, in relation to a collective investment scheme, is to be read in accordance with section 235 of the Financial Services and Markets Act 2000.”

### **37 Roll-over relief**

- (1) In section 155 of TCGA 1992 (roll-over relief: relevant classes of assets), in the entry for Class 7A, for “Council Regulation (EC) No. 1782/2003” substitute “ Council Regulation (EC) No 73/2009 ”.
- (2) In section 86 of FA 1993, for subsection (2) (power to add to classes specified in section 155 of TCGA 1992) substitute—
  - “(2) The Treasury may by order made by statutory instrument amend section 155 of the Taxation of Chargeable Gains Act 1992 (roll-over relief: relevant classes of assets) so as to add to or amend the classes of assets specified in that section.
  - (2A) But an order under subsection (2) may not restrict the assets which fall within a class listed in that section (whether by virtue of subsection (2) or otherwise).
  - (2B) An order under subsection (2) may make such consequential amendments of section 156ZB of, or Schedule 7AB to, the Taxation of Chargeable Gains Act 1992 as appear to the Treasury to be appropriate.”
- (3) Accordingly, section 43(3) of FA 2002 is repealed.
- (4) The amendment made by subsection (1) has effect where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1 January 2009.

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## CHAPTER 5

### MISCELLANEOUS

#### *Enterprise incentives*

#### **38 Seed enterprise investment scheme**

Schedule 6 contains provision for and in connection with the seed enterprise investment scheme (including provision for re-investment relief under TCGA 1992).

#### **39 Enterprise investment scheme**

Schedule 7 contains provision about the enterprise investment scheme (including provision about deferral relief under Schedule 5B to TCGA 1992).

#### **40 Venture capital trusts**

Schedule 8 contains provision about venture capital trusts.

#### *Capital allowances*

#### **41 Plant and machinery: restricting exception for manufacturers and suppliers**

- (1) In section 230 of CAA 2001 (exception for manufacturers and suppliers), in subsection (1), for “restrictions in sections 217 and 218 do” substitute “restriction in section 218 does”.
- (2) The amendment made by subsection (1) has effect in relation to expenditure of B's that is incurred on or after 12 August 2011 (regardless of when the relevant transaction was entered into).
- (3) But, in relation to any such expenditure that is incurred before the next amendment date, the restriction in section 217 of CAA 2001 does not apply (despite subsection (1)) if B can show that the condition in subsection (4) is met.
- (4) The condition is that, had the amendments made by paragraphs 1 to 7 of Schedule 9 had effect in relation to the expenditure, the restriction in section 217 would not have applied.
- (5) “The next amendment date” means the date defined in paragraph 9 of Schedule 9 as the start date.

#### **42 Plant and machinery allowances: anti-avoidance**

Schedule 9 contains provision to counter abuse of Part 2 of CAA 2001.

#### **43 Plant and machinery allowances: fixtures**

Schedule 10 contains provision about plant and machinery allowances in respect of fixtures.

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#### **44 Expenditure on plant and machinery for use in designated assisted areas**

Schedule 11 contains provision about first-year allowances in respect of expenditure on plant and machinery for use in designated assisted areas.

#### **45 Allowances for energy-saving plant and machinery**

- (1) Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.
- (2) In section 45A (expenditure on energy-saving plant or machinery), after subsection (1) insert—
  - “(1A) This section is subject to section 45AA (payments under Energy Act 2008 schemes).”
- (3) After that section insert—

##### **“45AA Section 45A exclusion: payments under Energy Act 2008 schemes**

- (1) Expenditure incurred on or after the relevant date on plant or machinery is to be treated as never having been first-year qualifying expenditure under section 45A if—
  - (a) a payment is made, or another incentive is given, under a scheme established by virtue of section 41 of the Energy Act 2008 (feed-in tariffs) in respect of electricity generated by the plant or machinery, or
  - (b) a payment is made, or another incentive is given, under a scheme established by regulations under section 100 of that Act (renewable heat incentives) in respect of heat generated, or gas or fuel produced, by the plant or machinery.
- (2) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (1).
- (3) If a person who has made a tax return becomes aware that, after making it, anything in it has become incorrect because of the operation of this section, the person must give notice to an officer of Revenue and Customs specifying how the return needs to be amended.
- (4) The notice must be given within 3 months beginning with the day on which the person first became aware that anything in the return had become incorrect because of the operation of this section.
- (5) Except as provided by subsection (6), the relevant date is—
  - (a) for corporation tax purposes, 1 April 2012, and
  - (b) for income tax purposes, 6 April 2012.
- (6) In the case of expenditure incurred on a combined heat and power system, the relevant date in relation to subsection (1)(b) is—
  - (a) for corporation tax purposes, 1 April 2014, and
  - (b) for income tax purposes, 6 April 2014.”
- (4) In section 104A (special rate expenditure)—
  - (a) in subsection (1), omit the “and” after paragraph (e), and after paragraph (f) insert “, and

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- (g) expenditure incurred on or after the third relevant date on the provision of solar panels.”, and
- (b) after subsection (3) insert—
  - “(3A) The third relevant date is—
  - (a) for corporation tax purposes, 1 April 2012, and
  - (b) for income tax purposes, 6 April 2012.”

#### **46 Plant and machinery: long funding leases**

(1) Section 70E of CAA 2001 (disposal events and disposal values) is amended as follows.

(2) In subsection (2A), for the definition of “R” substitute—

“R is the sum of—

- (a) any relevant rebate (see subsections (2F) and (2G)), and
- (b) any other relevant lease-related payment (see subsections (2FA) and (2G)).”

(3) After subsection (2F) insert—

“(2FA) Relevant lease-related payment” means any payment which—

- (a) is payable at any time for the benefit (directly or indirectly) of the lessee or a person connected with the lessee,
- (b) is connected with the long funding lease, or with any arrangement connected with that lease, and
- (c) is not—
  - (i) an initial payment or any other payment made to the lessor by the lessee under the lease,
  - (ii) a payment made to the lessor by the lessee under a guarantee of any residual amount (as defined in section 70YE),
  - (iii) an initial payment or any other payment made under a relevant superior lease to the person who is the lessor under that lease by the person who is the lessee under that lease, or
  - (iv) a payment to the seller of the proceeds of a sale of the plant or machinery to which subsection (2FC) applies,

if, and to the extent that, the payment is not otherwise brought into account for tax purposes as income or a disposal receipt by the person for whom the benefit is payable (or would not be if that person were within the charge to tax).

(2FB) For the purposes of subsection (2FA)—

“payment” includes the provision of any benefit, the assumption of any liability and any other transfer of money's worth (and “payable” is to be construed accordingly);

“relevant superior lease” means any lease of the plant or machinery to which the long funding lease mentioned in subsection (1)(a) is inferior.

(2FC) This subsection applies to a sale of the plant or machinery if—

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- (a) a person has entered into a relevant transaction with another person in respect of the plant or machinery for the purposes of Chapter 17 of this Part (see section 213) and the sale is within section 213(1)(a),
  - (b) the plant or machinery is within section 216(1)(b) (sale and lease back), and
  - (c) the conditions in section 227(2) are met.”
- (4) For subsection (2G) substitute—
- “(2G) In the case of a lease that is not a transaction at arm's length, “relevant rebate” and “relevant lease-related payment” include any amount that would reasonably be expected to have fallen within subsection (2F) or, as the case may be, (2FA) if the lease had been such a transaction.”
- (5) The amendments made by this section have effect in relation to cases where the relevant event occurs on or after 21 March 2012.

#### *Foreign income and gains*

#### **47 Foreign income and gains**

Schedule 12 contains provision about the taxation of foreign income and gains.

#### *Pensions*

#### **48 Employer asset-backed pension contributions etc**

Schedule 13 contains—

- (a) provision relating to employers who pay contributions under registered pension schemes and arrangements for which their contributions are used (directly or indirectly), and
- (b) provision amending Chapter 5B of Part 13 of ITA 2007 and Chapter 2 of Part 16 of CTA 2010 (finance arrangements).

#### *Charitable giving etc*

#### **49 Gifts to the nation**

Schedule 14 contains provision for a person's tax liability to be reduced in return for giving pre-eminent property to the nation.

#### **50 Gift aid: giving through self-assessment return**

- (1) Section 429 of ITA 2007 (gift aid: giving through self-assessment return) is repealed.
- (2) The following repeals are made in consequence of subsection (1)—
  - (a) in section 426 of ITA 2007 (election by donor: gift treated as made in previous tax year), omit subsection (8),
  - (b) in section 538 of that Act (requirement to make claim), omit subsection (3),
  - (c) in section 133 of FA 2008 (set-off etc where right to be paid a sum has been transferred), in subsection (8)(a), omit the words from “except” to the end,

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- (d) in section 472 of CTA 2010 (gifts qualifying for gift aid relief: corporation tax liability and exemption), omit subsection (5), and
  - (e) in section 475 of that Act (gifts qualifying for gift aid relief: income tax treated as paid and exemption), omit subsection (7).
- (3) Accordingly, the following provisions are also repealed—
- (a) section 130(9) of FA 2008, and
  - (b) paragraph 3(4) of Schedule 8 to FA 2010.
- (4) The repeals made by this section are treated as having come into force on 6 April 2012.

## **51 Relief for gift aid and other income of charities etc**

Schedule 15 contains provision about relief in respect of gifts qualifying for gift aid relief and other income of charities and other bodies.

## **52 Meaning of “community amateur sports club”**

- (1) In section 658 of CTA 2010 (meaning of “community amateur sports club”), for subsection (1) substitute—
- “(1) A club is entitled to be registered as a community amateur sports club if conditions A and B are met.
- (1A) Condition A is that the club is, and is required by its constitution to be, a club which—
- (a) is open to the whole community (see section 659),
  - (b) is organised on an amateur basis (see section 660), and
  - (c) has as its main purpose the provision of facilities for, and the promotion of participation in, one or more eligible sports (see section 661).
- (1B) Condition B is that the club meets—
- (a) the location condition (see section 661A), and
  - (b) the management condition (see section 661B).”
- (2) In consequence of the amendment made by subsection (1), omit paragraph 31 of Schedule 6 to FA 2010.
- (3) The amendments made by this section are treated as having come into force on 6 April 2010.

### *Other provisions*

## **53 Site restoration payments**

- (1) In section 168 of ITTOIA 2005 (site restoration payments), at the beginning of subsection (2) insert “ Subject to subsection (3A), ”.
- (2) For subsection (3) of that section substitute—
- “(3) The deduction is allowed—

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- (a) (if the payment is made, whether directly or indirectly, to a connected person) for the period of account in which that part of the restoration work to which the payment relates is completed, or
  - (b) (in any other case) for the period of account in which the payment is made.
- (3A) But no deduction is allowed if the payment arises from arrangements—
- (a) to which the person carrying on the trade is a party, and
  - (b) the main purpose, or one of the main purposes, of which is to obtain a deduction under this section.”
- (3) At the end of that section insert—
- “(7) Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (4) In section 145 of CTA 2009 (site restoration payments), at the beginning of subsection (2) insert “ Subject to subsection (3A), ”.
- (5) For subsection (3) of that section substitute—
- “(3) The deduction is allowed—
- (a) (if the payment is made, whether directly or indirectly, to a connected person) for the period of account in which that part of the restoration work to which the payment relates is completed, or
  - (b) (in any other case) for the period of account in which the payment is made.
- (3A) But no deduction is allowed if the payment arises from arrangements—
- (a) to which the company carrying on the trade is a party, and
  - (b) the main purpose, or one of the main purposes, of which is to obtain a deduction under this section.”
- (6) At the end of that section insert—
- “(7) Arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (7) The amendments made by this section have effect in relation to any site restoration payment made on or after 21 March 2012, other than a payment made pursuant to an unconditional obligation in a contract made before 21 March 2012.
- (8) An unconditional obligation is an obligation which may not be varied or extinguished by the exercise of a right (whether or not under the contract).

## 54 Changes of accounting policy

- (1) In section 227 of ITTOIA 2005 (adjustment on change of accounting basis: income tax)—
- (a) in subsection (3)(a) for “relevant change of accounting approach” substitute “change of accounting policy”, and
  - (b) for subsection (4) substitute—
- “(4) A “change of accounting policy” includes, in particular—



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- (a) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards, and
  - (b) a change from using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards to using UK generally accepted accounting practice.”
- (2) In section 180 of CTA 2009 (adjustment on change of accounting basis: corporation tax)—
  - (a) in subsection (3)(a) for “relevant change of accounting approach” substitute “change of accounting policy”, and
  - (b) for subsection (4) substitute—
    - “(4) A “change of accounting policy” includes, in particular—
      - (a) a change from using UK generally accepted accounting practice to using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards, and
      - (b) a change from using generally accepted accounting practice with respect to accounts prepared in accordance with international accounting standards to using UK generally accepted accounting practice.”
- (3) Corresponding amendments are to be treated as having been made in section 64 of FA 2002.
- (4) In consequence of the amendment made by subsection (1)(b), omit paragraph 2 of Schedule 6 to F(No.2)A 2005.
- (5) The amendments made by this section have effect in relation to a change of basis if the new basis—
  - (a) is adopted for a period of account which begins on or after 1 January 2012, or
  - (b) is adopted for a period of account which begins before 1 January 2012 and the adoption is in consequence of the issue, revocation, amendment or recognition of, or withdrawal of recognition from, an accounting standard by an accounting body on or after 1 January 2012.
- (6) In this section—
  - “accounting body” means the International Accounting Standards Board, the Accounting Standards Board, or a successor body to either of those Boards;
  - “accounting standard” includes any statement of practice, guidance or other similar document.

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