



# Finance Act 2015

## 2015 CHAPTER 11

### PART 1 **U.K.**

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

### CHAPTER 2 **U.K.**

#### INCOME TAX: GENERAL

- 7 Cars: the appropriate percentage for 2017-18 **U.K.****
- (1) ITEPA 2003 is amended as follows.
  - (2) Section 139 (car with a CO<sub>2</sub> figure: the appropriate percentage) is amended as set out in subsections (3) and (4).
  - (3) In subsection (2)—
    - (a) in paragraph (a), for “7%” substitute “ 9% ”,
    - (b) in paragraph (aa), for “11%” substitute “ 13% ”, and
    - (c) in paragraph (b), for “15%” substitute “ 17% ”.
  - (4) In subsection (3), for “16%” substitute “ 18% ”.
  - (5) In section 140(2) (car without a CO<sub>2</sub> figure: the appropriate percentage), in the Table—
    - (a) for “16%” substitute “ 18% ”, and
    - (b) for “27%” substitute “ 29% ”.
  - (6) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
    - (a) for “16%” substitute “ 18% ”, and
    - (b) for “27%” substitute “ 29% ”.
  - (7) The amendments made by this section have effect for the tax year 2017-18.

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

## 8 Cars: the appropriate percentage for subsequent tax years **U.K.**

- (1) ITEPA 2003 is amended as follows.
- (2) Section 139 (car with a CO<sub>2</sub> figure: the appropriate percentage) is amended as set out in subsections (3) and (4).
- (3) In subsection (2)—
  - (a) in paragraph (a), for “9%” substitute “ 13% ”,
  - (b) in paragraph (aa), for “13%” substitute “ 16% ”, and
  - (c) in paragraph (b), for “17%” substitute “ 19% ”.
- (4) In subsection (3), for “18%” substitute “ 20% ”.
- (5) In section 140(2) (car without a CO<sub>2</sub> figure: the appropriate percentage), in the Table—
  - (a) for “18%” substitute “ 20% ”, and
  - (b) for “29%” substitute “ 31% ”.
- (6) In section 142(2) (car first registered before 1 January 1998: the appropriate percentage), in the Table—
  - (a) for “18%” substitute “ 20% ”, and
  - (b) for “29%” substitute “ 31% ”.
- (7) The amendments made by this section have effect for the tax year 2018-19 and subsequent tax years.

## 9 Diesel cars: the appropriate percentage for 2015-16 **U.K.**

- (1) In section 141(2) of ITEPA 2003 (diesel cars: the appropriate percentage), in Step 3, for “35%” substitute “ 37% ”.
- (2) The amendment made by this section has effect for the tax year 2015-16.

## 10 Zero-emission vans **U.K.**

- (1) ITEPA 2003 is amended as follows.
- (2) In section 155 (cash equivalent of the benefit of a van), for subsections (1) and (2) substitute—
  - “(1) The cash equivalent of the benefit of a van for a tax year is calculated as follows.
    - (1A) If the restricted private use condition is met in relation to the van for the tax year, the cash equivalent is nil.
    - (1B) If that condition is not met in relation to the van for the tax year—
      - (a) if the van cannot in any circumstances emit CO<sub>2</sub> by being driven and the tax year is any of the tax years 2015-16 to 2019-20, the cash equivalent is the appropriate percentage of £3,150, and
      - (b) in any other case, the cash equivalent is £3,150.
    - (1C) The appropriate percentage for the purposes of subsection (1B)(a) is—
      - (a) 20% for the tax year 2015-16,
      - (b) 40% for the tax year 2016-17,

---

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

- (c) 60% for the tax year 2017-18,
  - (d) 80% for the tax year 2018-19, and
  - (e) 90% for the tax year 2019-20.”
- (3) In section 156(1) (reduction for periods when van unavailable), for “155(1)” substitute “155”.
- (4) In section 158(1) (reduction for payments for private use), for “155(1)” substitute “155”.
- (5) In section 160(1)(c) (benefit of fuel treated as earnings), for “section 155(1)(b)” substitute “section 155(1B)(b)”.
- (6) In section 170 (orders etc relating to Chapter 6 of Part 3), for subsection (1A) substitute—
- “(1A) The Treasury may by order substitute a different amount for the amount for the time being specified in—
- (a) section 155(1A) (cash equivalent where van subject only to restricted private use by employee),
  - (b) section 155(1B)(a) (cash equivalent for zero-emission van), and
  - (c) section 155(1B)(b) (cash equivalent in other cases).”
- (7) Article 3 of the Van Benefit and Car and Van Fuel Benefit Order 2014 (S.I. 2014/2896) is revoked.
- (8) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

## 11 Exemption for amounts which would otherwise be deductible **U.K.**

- (1) In Part 4 of ITEPA 2003 (employment income: exemptions) after Chapter 7 insert—

### “CHAPTER 7A **U.K.**

#### EXEMPTIONS: AMOUNTS WHICH WOULD OTHERWISE BE DEDUCTIBLE

##### 289A Exemption for paid or reimbursed expenses

- (1) No liability to income tax arises by virtue of Chapter 3 of Part 3 (taxable benefits: expenses payments) in respect of an amount (“amount A”) paid or reimbursed by a person to an employee (whether or not an employee of the person) in respect of expenses if—
- (a) an amount equal to or exceeding amount A would (ignoring this section) be allowed as a deduction from the employee's earnings under Chapter 2 or 5 of Part 5 in respect of the expenses, and
  - (b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements.
- (2) No liability to income tax arises in respect of an amount paid or reimbursed by a person (“the payer”) to an employee (whether or not an employee of the payer) in respect of expenses if—

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (a) the amount has been calculated and paid or reimbursed in an approved way (see subsection (6)),
  - (b) the payment or reimbursement is not provided pursuant to relevant salary sacrifice arrangements, and
  - (c) conditions A and B are met.
- (3) Condition A is that the payer or another person operates a system for checking—
- (a) that the employee is, or employees are, in fact incurring and paying amounts in respect of expenses of the same kind, and
  - (b) that a deduction would (ignoring this section) be allowed under Chapter 2 or 5 of Part 5 in respect of those amounts.
- (4) Condition B is that neither the payer nor any other person operating the system knows or suspects, or could reasonably be expected to know or suspect—
- (a) that the employee has not incurred and paid an amount in respect of the expenses, or
  - (b) that a deduction from the employee's earnings would not be allowed under Chapter 2 or 5 of Part 5 in respect of the amount.
- (5) “Relevant salary sacrifice arrangements”, in relation to an employee to whom an amount is paid or reimbursed in respect of expenses, means arrangements (whenever made, whether before or after the employment began) under which—
- (a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the payment or reimbursement, or
  - (b) the amount of other general earnings or specific employment income received by the employee depends on the amount of the payment or reimbursement.
- (6) For the purposes of this section, a sum is calculated and paid or reimbursed in an approved way if—
- (a) it is calculated and paid or reimbursed in accordance with regulations made by the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) it is calculated and paid or reimbursed in accordance with an approval given under section 289B.
- (7) Regulations made under subsection (6)(a) may make different provision for different purposes.

#### **289B Approval to pay or reimburse expenses at a flat rate**

- (1) A person (“the applicant”) may apply to Her Majesty's Revenue and Customs for approval to pay or reimburse expenses of the applicant's employees, or employees of another person, at a rate set out in the application (“the proposed rate”).
- (2) An officer of Revenue and Customs may give the approval if satisfied that any calculation of a payment or reimbursement of expenses in accordance with the proposed rate, or such other rate as is agreed between the applicant and

---

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

the officer, would be a reasonable estimate of the amount of expenses actually incurred.

- (3) An approval under subsection (2) takes effect in accordance with a notice (an “approval notice”) given to the applicant by an officer of Revenue and Customs.
- (4) An approval notice must specify—
  - (a) the rate at which expenses may be paid or reimbursed,
  - (b) the day from which the approval takes effect, that day not being earlier than the day on which the approval notice is given,
  - (c) the day on which the approval ceases to have effect, that day not being later than the end of the period of 5 years beginning with the day on which the approval takes effect, and
  - (d) the type of expenses to which the approval relates.
- (5) An approval notice may specify that the approval is subject to conditions specified or described in the notice.
- (6) An application for an approval under this section must be in such form and manner, and contain such information, as is specified by Her Majesty's Revenue and Customs.

#### 289C Revocation of approvals

- (1) An officer of Revenue and Customs may, if in the officer's opinion there is reason to do so, revoke an approval given under section 289B by giving a further notice (a “revocation notice”) to either or both of the following—
  - (a) the person who applied for the approval, and
  - (b) the person who is paying or reimbursing expenses in accordance with the approval.
- (2) A revocation notice may revoke the approval from—
  - (a) the day on which the approval took effect, or
  - (b) a later day specified in the notice.
- (3) A revocation under subsection (1) may be in relation to all expenses or expenses of a description specified in the revocation notice.
- (4) If the revocation notice revokes the approval from the day on which the approval took effect—
  - (a) any liability to tax that would have arisen in respect of the payment or reimbursement of expenses if the approval had never been given in relation to such expenses is to be treated as having arisen, and
  - (b) any person who has made, and any employee who has received, a payment or reimbursement of expenses calculated in accordance with the approval must make all the returns which they would have had to make if the approval had never been given in relation to such expenses.
- (5) If the revocation notice revokes the approval from a later day—
  - (a) any liability to tax that would have arisen in respect of the payment or reimbursement of expenses if the approval had ceased to have effect

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

on that day in relation to such expenses is to be treated as having arisen, and

- (b) any person who has made, and any employee who has received, a payment or reimbursement of expenses calculated in accordance with the approval must make all the returns which they would have had to make if the approval had ceased to have effect in relation to such expenses on that day.

#### **289D Exemption for other benefits**

- (1) No liability to income tax arises by virtue of any provision of the benefits code in respect of an amount (“amount A”) treated as earnings of an employee as a result of the provision of a benefit if—
  - (a) an amount equal to amount A would (ignoring this section) be allowed as a deduction from the employee's earnings under Chapter 3 of Part 5 in respect of the provision of the benefit, and
  - (b) the benefit is not provided pursuant to relevant salary sacrifice arrangements.
- (2) “Relevant salary sacrifice arrangements”, in relation to an employee to whom a benefit is provided, means arrangements (whenever made, whether before or after the employment began) under which—
  - (a) the employee gives up the right to receive an amount of general earnings or specific employment income in return for the provision of the benefit, or
  - (b) the amount of other general earnings or specific employment income received by the employee depends on the provision of the benefit.

#### **289E Anti-avoidance**

- (1) This section applies if conditions A to C are met.
- (2) Condition A is that, pursuant to arrangements, an amount—
  - (a) is paid or reimbursed to an employee in respect of expenses, or
  - (b) is treated as earnings of an employee as a result of the provision of a benefit,
 which, in the absence of this section, would have been exempt from income tax.
- (3) Condition B is that, in the absence of those arrangements, the employee would have received a greater amount of general earnings or specific employment income in respect of which—
  - (a) tax would have been chargeable, or
  - (b) national insurance contributions would have been payable (whether by the employee or another person).
- (4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is the avoidance of tax or national insurance contributions.
- (5) If this section applies—
  - (a) the exemption conferred by section 289A does not apply in respect of the amount paid or reimbursed as mentioned in subsection (2)(a), and

---

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

- (b) the exemption conferred by section 289D does not apply in respect of the amount treated as earnings as mentioned in subsection (2)(b).
- (6) In this section “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable.”
- (2) The amendment made by this section has effect for the tax year 2016-17 and subsequent tax years.

## 12 Abolition of dispensation regime **U.K.**

- (1) ITEPA 2003 is amended as follows.
- (2) Omit section 65 (dispensations relating to benefits for certain employees).
- (3) Omit section 96 (dispensations relating to vouchers or credit-tokens).
- (4) Accordingly—
  - (a) in section 95 (disregard for money, services or goods obtained), omit subsection (1)(b) and the “or” before it, and
  - (b) in Schedule 7 (transitionals and savings), omit paragraphs 15, 16, 19 and 20 and the italic headings before paragraphs 15 and 19.
- (5) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.
- (6) The repeal of sections 65 and 96 of ITEPA 2003 does not affect the power of an officer of Revenue and Customs to revoke a pre-commencement dispensation from a date earlier than 6 April 2016.
- (7) Accordingly, sections 65(6) to (9) and 96(5) to (8) of ITEPA 2003 continue to have effect in relation to a pre-commencement dispensation.
- (8) In this section “pre-commencement dispensation” means a dispensation given (or treated as given) under section 65 or 96 of ITEPA 2003 which is in force immediately before 6 April 2016.

## 13 Extension of benefits code except in relation to certain ministers of religion **U.K.**

- (1) Omit Chapter 11 of Part 3 of ITEPA 2003 (taxable benefits: exclusion of lower-paid employments from parts of benefits code).
- (2) In Part 4 of that Act (employment income: exemptions), after section 290B insert—

### **“290C Provisions of benefits code not applicable to lower-paid ministers of religion**

- (1) This section applies where a person is in employment which is lower-paid employment as a minister of religion in relation to a tax year.
- (2) No liability to income tax arises in respect of the person in relation to the tax year by virtue of any of the following Chapters of the benefits code—
  - (a) Chapter 3 (taxable benefits: expenses payments);
  - (b) Chapter 6 (taxable benefits: cars, vans and related benefits);

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (c) Chapter 7 (taxable benefits: loans);
- (d) Chapter 10 (taxable benefits: residual liability to charge).

(3) Subsection (2)—

- (a) means that in any of those Chapters a reference to an employee does not include an employee whose employment is within the exclusion in that subsection, if the context is such that the reference is to an employee in relation to whom the Chapter applies, but
- (b) does not restrict the meaning of references to employees in other contexts.

(4) Subsection (2) has effect subject to—

- (a) section 188(2) (discharge of loan: where employment becomes lower-paid), and
- (b) section 290G (employment in two or more related employments).

**290D Meaning of “lower-paid employment as a minister of religion”**

(1) For the purposes of this Part an employment is “lower-paid employment as a minister of religion” in relation to a tax year if—

- (a) the employment is direct employment as a minister of a religious denomination, and
- (b) the earnings rate for the employment for the year (calculated under section 290E) is less than £8,500.

(2) An employment is not “direct employment” for the purposes of subsection (1) (a) if—

- (a) it is an employment which is treated as existing under—
  - (i) section 56(2) (deemed employment of worker by intermediary), or
  - (ii) section 61G(2) (deemed employment of worker by managed service company), or
- (b) an amount counts as employment income in respect of it by virtue of section 554Z2(1) (treatment of relevant step under Part 7A (employment income provided through third parties)).

(3) Subsection (1) is subject to section 290G.

**290E Calculation of earnings rate for a tax year**

(1) For any tax year the earnings rate for an employment is to be calculated as follows—

*Step 1* Find the total of the following amounts—

- (a) the total amount of the earnings from the employment for the year within Chapter 1 of Part 3 (earnings),
- (b) the total of any amounts that are treated as earnings from the employment for the year under the benefits code (see subsections (2) and (3)), and
- (c) the total of any amounts that are treated as earnings from the employment for the year under Chapter 12 of Part 3 (other amounts treated as earnings),



---

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

excluding any exempt income, other than any attributable to section 290A or 290B (accommodation outgoings of ministers of religion).

*Step 2* Add to that total any extra amount required to be added for the year by section 290F (extra amounts to be added in connection with a car).

*Step 3* Subtract the total amount of any authorised deductions (see subsection (4)) from the result of step 2.

*Step 4* The earnings rate for the employment for the year is given by the formula—

$$R \times \frac{Y}{E}$$

where—

R is the result of step 3,

Y is the number of days in the year, and

E is the number of days in the year when the employment is held.

- (2) Section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion) is to be disregarded for the purpose of determining any amount under step 1.
- (3) If the benefit of living accommodation is to be taken into account under step 1, the cash equivalent is to be calculated in accordance with section 105 (even if the cost of providing the accommodation exceeds £75,000).
- (4) For the purposes of step 3 “authorised deduction” means any deduction that would (assuming it was an amount of taxable earnings) be allowed from any amount within step 1 under—
  - section 346 (employee liabilities),
  - section 370 (travel costs and expenses where duties performed abroad: employee's travel),
  - section 371 (travel costs and expenses where duties performed abroad: visiting spouse's, civil partner's or child's travel),
  - section 373 (non-domiciled employee's travel costs and expenses where duties performed in UK),
  - section 374 (non-domiciled employee's spouse's, civil partner's or child's travel costs and expenses where duties performed in UK),
  - section 376 (foreign accommodation and subsistence costs and expenses (overseas employments)),
  - section 713 (payroll giving to charities),
  - sections 188 to 194 of FA 2004 (contributions to registered pension schemes), or

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

section 262 of CAA 2001 (capital allowances to be given effect by treating them as deductions).

### **290F Extra amounts to be added in connection with a car**

- (1) The provisions of this section apply for the purposes of section 290E in the case of a tax year in which a car is made available as mentioned in section 114(1) (cars, vans and related benefits) by reason of the employment.
- (2) Subsection (3) applies if in the tax year—
  - (a) an alternative to the benefit of the car is offered, and
  - (b) the amount that would be earnings within Chapter 1 of Part 3 if the benefit of the car were to be determined by reference to the alternative offered exceeds the benefit code earnings (see subsection (4)).
- (3) The amount of the excess is an extra amount to be added under step 2 in section 290E(1).
- (4) For the purposes of subsection (2) “the benefit code earnings” is the total for the year of—
  - (a) the cash equivalent of the benefit of the car (calculated in accordance with Chapter 6 of Part 3 (taxable benefits: cars, vans etc)), and
  - (b) the cash equivalent (calculated in accordance with that Chapter) of the benefit of any fuel provided for the car by reason of the employment.
- (5) Section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion) is to be disregarded for the purpose of determining any amount under this section.

### **290G Related employments**

- (1) This section applies if a person is employed in two or more related employments.
  - (2) None of the employments is to be regarded as lower-paid employment as a minister of religion in relation to a tax year if—
    - (a) the total of the earnings rates for the employments for the year (calculated in each case under section 290E) is £8,500 or more, or
    - (b) any of them is an employment falling outside the exclusion contained in section 290C(2) (provisions of benefits code not applicable to lower-paid ministers of religion).
  - (3) For the purposes of this section two employments are “related” if—
    - (a) both are with the same employer, or
    - (b) one is with a body or partnership (“A”) and the other is either—
      - (i) with an individual, partnership or body that controls A (“B”),  
or
      - (ii) with another partnership or body also controlled by B.
  - (4) Section 69 (extended meaning of “control”) applies for the purposes of this section as it applies for the purposes of the benefits code.”
- (3) Schedule 1 contains amendments relating to subsections (1) and (2).

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (4) The amendments made by this section and Schedule 1 have effect for the tax year 2016-17 and subsequent tax years.

#### 14 Exemption for board or lodging provided to carers **U.K.**

- (1) Part 4 of ITEPA 2003 (employment income: exemptions) is amended as follows.
- (2) In Chapter 8 (exemptions: special kinds of employees), after section 306 insert—

*“Carers*

##### **306A Carers: board and lodging**

- (1) For the purposes of this section an individual is employed as a home care worker if the duties of the employment consist wholly or mainly of the provision of personal care to another individual (“the recipient”) at the recipient's home, in a case where the recipient is in need of personal care because of—
- (a) old age,
  - (b) mental or physical disability,
  - (c) past or present dependence on alcohol or drugs,
  - (d) past or present illness, or
  - (e) past or present mental disorder.
- (2) No liability to income tax arises by virtue of Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of board or lodging (or both) to an individual employed as a home care worker if the provision is—
- (a) on a reasonable scale,
  - (b) at the recipient's home, and
  - (c) by reason of the individual's employment as a home care worker.”
- (3) In section 228 (effect of exemptions on liability under provisions outside Part 2), in subsection (2)(d), after “291” insert “ and 306A ”.
- (4) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

#### 15 Lump sums provided under armed forces early departure scheme **U.K.**

- (1) In section 640A of ITEPA 2003 (lump sums provided under armed forces early departure scheme), at the end insert “ or the Armed Forces Early Departure Payments Scheme Regulations 2014 (S.I. 2014/2328) ”.
- (2) Subsection (1) comes into force on 1 April 2015.

##### **Commencement Information**

- II** [S. 15](#) wholly in force at 1.4.2015; [s. 15\(2\)](#) in force at Royal Assent; [s. 15\(1\)](#) in force at 1.4.2015; see [s. 15\(2\)](#)

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

## 16 Bereavement support payment: exemption from income tax **U.K.**

- (1) ITEPA 2003 is amended as follows.
- (2) In Part 1 of Table B in section 677(1) (UK social security benefits wholly exempt from tax), at the appropriate place insert—

---

“Bereavement support payment	PA 2014	Section 30
Any provision made for Northern Ireland which corresponds to section 30 of PA 2014”		

---

- (3) In Part 1 of Schedule 1 (abbreviations of Acts and instruments), at the appropriate place insert—

---

“PA 2014	The Pensions Act 2014”
----------	------------------------

---

- (4) The amendments made by this section have effect in accordance with regulations made by the Treasury.
- (5) Regulations under subsection (4) may make different provision for different purposes.
- (6) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply in relation to regulations under subsection (4).

## 17 PAYE: benefits in kind **U.K.**

- (1) Section 684 of ITEPA 2003 (PAYE regulations) is amended as follows.
- (2) In the list in subsection (2), after item 1 insert—

Provision—

- (a) for authorising a person (“P”), in a case where the PAYE income of an employee (whether an employee of P or of another person) includes an amount charged to tax under any of Chapters 3 and 5 to 10 of Part 3 in respect of the provision of a benefit of a specified kind—
    - (i) to make deductions of income tax in respect of the benefit from any payment or payments actually made of, or on account of, PAYE income of the employee, or
    - (ii) to make repayments of such income tax,
  - (b) for any such deductions or repayments to be made at a specified time,
  - (c) for the amount of any such deductions or repayments to be calculated in accordance with the regulations,
  - (d) for the provision of the benefit to be treated for specified purposes as a payment of PAYE income, and
  - (e) for making persons who make any such deductions or repayments accountable to or, as the case may be, entitled to repayment from the Commissioners.”
- (3) For subsection (3) substitute—
    - “(3) The deductions of income tax—

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (a) required to be made by PAYE regulations under item 1 in the above list, or
- (b) which a person is authorised to make by PAYE regulations under item 1ZA in that list,

may be required to be made at the basic rate or other rates in such cases or classes of case as may be provided by the regulations.”

## 18 Employment intermediaries: determination of penalties **U.K.**

- (1) Section 100 of TMA 1970 (determination of penalties by officer of Board) is amended as follows.
- (2) In subsection (2)(c), after “those amendments” insert “, subject to subsection (2A) ”.
- (3) After subsection (2) insert—

“(2A) Subsection (2)(c) does not exclude the application of subsection (1) where the penalty relates to a failure to furnish any information or produce any document or record in accordance with regulations under section 716B of ITEPA 2003 (employment intermediaries to keep, preserve and provide information etc).”

## 19 Arrangements offering a choice of capital or income return **U.K.**

- (1) Chapter 3 of Part 4 of ITTOIA 2005 (dividends etc from UK resident companies and tax [<sup>F1</sup>treated as paid] in respect of certain distributions) is amended in accordance with subsections (2) to (6).
- (2) After section 396 insert—

*“Other amounts treated as distributions*

### **396A Arrangements offering a choice of capital or income return**

- (1) Subsection (2) applies if a person (“S”) has a choice either—
  - (a) to receive what would (ignoring this section) be a distribution of a company, or
  - (b) to receive from that company, or from a third party, anything else (“the alternative receipt”) which—
    - (i) is of the same or substantially the same value, and
    - (ii) (ignoring this section) would not be charged to income tax.
- (2) If S chooses the alternative receipt—
  - (a) for income tax purposes it is treated as a distribution made to S by that company in the tax year in which it is received by S, and
  - (b) for the purposes of the following provisions it is treated as a qualifying distribution so made—
    - (i) section 397 (tax credits for qualifying distributions of UK resident companies: UK residents and eligible non-UK residents);
    - (ii) section 399 (qualifying distributions received by persons not entitled to tax credits);

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (iii) section 1100 of CTA 2010 (qualifying distributions: right to request a statement).
- (3) For the purposes of this section—
- (a) it does not matter if the choice mentioned in subsection (1) is subject to any conditions being met or to the exercise of any power;
  - (b) where S is offered one thing subject to a right, however expressed, to choose another instead, S is to be regarded as making a choice if S abandons or fails to exercise such a right.
- (4) If at any time a tax other than income tax (“the other tax”) is charged in relation to the alternative receipt, in order to avoid a double charge to tax in respect of that receipt, a person may make a claim for one or more consequential adjustments to be made in respect of the other tax.
- (5) On a claim under subsection (4) an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (6) Consequential adjustments may be made—
- (a) in respect of any period,
  - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
  - (c) despite any time limit imposed by or under an enactment.”
- (3) In section 382 (contents of Chapter 3), in subsection (1), omit the “and” at the end of paragraph (b) and after paragraph (c) insert “, and
- (d) treats distributions as made in some circumstances (see section 396A).”
- (4) In section 385 (person liable), in subsection (1)(a) for “and 389(3)” substitute “, 389(3) and 396A ”.
- <sup>F2</sup>(5) .....
- <sup>F2</sup>(6) .....
- (7) In section 481 of ITA 2007 (other amounts to be charged at special rates for trustees), in subsection (3), after “Type 1” insert “ or Type 12 ”.
- (8) In section 482 of that Act (types of amount to be charged at special rates for trustees), at the end insert— “ *Type 12* Income treated as arising to the trustees under section 396A of ITTOIA 2005 (arrangements offering a choice of income or capital return). ”
- (9) In section 1100 of CTA 2010 (qualifying distributions: right to request a statement), after subsection (6) insert—
- “(7) This section needs to be read with section 396A(2) of ITTOIA 2005 (which treats certain receipts as “qualifying distributions” for the purposes of this section).”
- (10) The amendments made by subsections (2) to (4), (7) and (8) have effect in relation to things received on or after 6 April 2015 (even if the choice to receive them was made before that date).

---

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

### Textual Amendments

- F1** Words in s. 19(1) substituted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by Finance Act 2016 (c. 24), **Sch. 1 para. 72(a)**
- F2** S. 19(5)(6) omitted (with effect in accordance with Sch. 1 para. 73 of the amending Act) by virtue of Finance Act 2016 (c. 24), **Sch. 1 para. 72(b)**

## 20 Intermediaries and Gift Aid **U.K.**

- (1) Chapter 2 of Part 8 of ITA 2007 (gift aid) is amended as follows.
- (2) In section 416 (meaning of “qualifying donation” for the purpose of gift aid relief)—
- (a) in subsection (1)(b)—
    - (i) after “the individual” insert “, or an intermediary representing the individual,” and
    - (ii) after “the charity” insert “, or an intermediary representing the charity,” and
  - (b) after subsection (1) insert—
 

“(1A) For the purpose of subsection (1)(b) an intermediary is—

    - (a) a person authorised by the individual to give a gift aid declaration on behalf of that individual to the charity,
    - (b) a person authorised by a charity to receive a gift aid declaration on behalf of that charity, or
    - (c) a person authorised to perform both of the roles described in paragraphs (a) and (b).”
- (3) For section 428(3) (regulations in relation to gift aid declarations) substitute—
- “(3) The regulations may also require—
- (a) charities, or intermediaries within the meaning of section 416(1A), to keep records with respect to declarations received from individuals or from those intermediaries,
  - (b) charities or intermediaries to produce, for inspection by an officer of Revenue and Customs, any records required to be kept by those charities or intermediaries by regulations made under paragraph (a), and
  - (c) intermediaries to provide statements of account, and other specified information relating to declarations made, in such form and at such times as may be specified, to individuals who have authorised those intermediaries to give those declarations to charities on their behalf.
- (4) The regulations may also make different provision for different cases or circumstances, including—
- (a) different provision for declarations made in a different manner or by different descriptions of persons, and
  - (b) different provision depending on whether or not an intermediary, within the meaning of section 416(1A), is involved in the giving or receiving of the declaration.”

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (4) The amendments made by this section have effect in relation to gifts made on or after a day appointed in regulations made by the Treasury.
- (5) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply to regulations under subsection (4).

#### Commencement Information

- I2** S. 20(2) has effect as specified by [The Finance Act 2015, Section 20\(2\) and \(3\) and the Finance Act 2016, Section 173\(1\) \(Appointed Days\) Regulations 2016 \(S.I. 2016/1010\)](#), [reg. 4](#)
- I3** S. 20(3) has effect as specified by [The Finance Act 2015, Section 20\(2\) and \(3\) and the Finance Act 2016, Section 173\(1\) \(Appointed Days\) Regulations 2016 \(S.I. 2016/1010\)](#), [reg. 2](#)

## 21 Disguised investment management fees **U.K.**

- (1) In Part 13 of ITA 2007 (tax avoidance), after Chapter 5D insert—

### “CHAPTER 5E **U.K.**

#### DISGUISED INVESTMENT MANAGEMENT FEES

#### 809EZA Disguised investment management fees: charge to income tax

- (1) Where one or more disguised fees arise to an individual in a tax year from one or more investment schemes (whether or not by virtue of the same arrangements), the individual is liable for income tax for the tax year in respect of the disguised fee or fees as if—
- (a) the individual were carrying on a trade for the tax year,
  - (b) the disguised fee or fees were the profits of the trade of the tax year, and
  - (c) the individual were the person receiving or entitled to those profits.
- (2) For the purposes of subsection (1) the trade is treated as carried on—
- (a) in the United Kingdom, to the extent that the individual performs the relevant services in the United Kingdom;
  - (b) outside the United Kingdom, to the extent that the individual performs the relevant services outside the United Kingdom;
- and for this purpose “the relevant services” means the investment management services by virtue of which the disguised fee or fees arise to the individual in the tax year.
- (3) For the purposes of this Chapter a “disguised fee” arises to an individual in a tax year from an investment scheme if—
- (a) the individual performs investment management services directly or indirectly in respect of the scheme under any arrangements,
  - (b) the arrangements involve at least one partnership,
  - (c) under the arrangements, a management fee arises to the individual directly or indirectly from the scheme in the tax year (see section 809EZB), and



---

*Changes to legislation:* There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

- (d) some or all of the management fee is untaxed; and the amount of the disguised fee is so much of the management fee as is untaxed.
- (4) For the purposes of subsection (3) the management fee is “untaxed” if and to the extent that the fee would not (apart from this section)—
  - (a) be charged to tax under ITEPA 2003 as employment income of the individual for any tax year, or
  - (b) be brought into account in calculating the profits of a trade of the individual for the purposes of income tax for any tax year.
- (5) In subsection (4) “trade” includes profession or vocation.
- (6) In this Chapter “investment scheme” means—
  - (a) a collective investment scheme, or
  - (b) an investment trust.

#### **809EZB Meaning of “management fee” in section 809EZA**

- (1) Subject as follows, for the purposes of section 809EZA “management fee” means any sum (including a sum in the form of a loan or advance or an allocation of profits) except so far as the sum constitutes—
  - (a) a repayment (in whole or part) of an investment made directly or indirectly by the individual in the scheme,
  - (b) an arm's length return on an investment made directly or indirectly by the individual in the scheme, or
  - (c) carried interest (see sections 809EZC and 809EZD).
- (2) For the purposes of subsection (1)(b) a return on an investment is “an arm's length return” if—
  - (a) the return is on an investment which is of the same kind as investments in the scheme made by external investors,
  - (b) the return on the investment is reasonably comparable to the return to external investors on those investments, and
  - (c) the terms governing the return on the investment are reasonably comparable to the terms governing the return to external investors on those investments.
- (3) In this Chapter “sum” includes any money or money's worth (and other expressions are to be construed accordingly).
- (4) Where—
  - (a) a sum in the form of money's worth arises to the individual from the scheme in the ordinary course of the scheme's business, and
  - (b) the individual gives the scheme money in exchange for the sum, the sum constitutes a “management fee” only to the extent that its market value at the time it arises exceeds the amount of the money given by the individual.

#### **809EZC Meaning of “carried interest” in section 809EZA**

- (1) For the purposes of section 809EZA “carried interest” means a sum which arises to the individual under the arrangements by way of profit-related return.

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

This is subject to subsections (3) to (8) (sums where no significant risk of not arising); and see also section 809EZD (sums treated as carried interest).

(2) A sum which arises to the individual under the arrangements does so by way of “profit-related return” if under the arrangements—

- (a) the sum is to, or may, arise only if—
  - (i) there are profits for a period on the investments, or on particular investments, made for the purposes of the scheme, or
  - (ii) there are profits arising from a disposal of the investments, or of particular investments, made for those purposes,
- (b) the amount of the sum which is to, or may, arise is variable, to a substantial extent, by reference to those profits, and
- (c) returns to external investors are also determined by reference to those profits;

but where any part of the sum does not meet these conditions, that part is not to be regarded as arising by way of “profit-related return”.

(3) Where—

- (a) one or more sums (“actual sums”) arise to the individual under the arrangements by way of profit-related return in a tax year, and
- (b) there was no significant risk that a sum of at least a certain amount (“the minimum amount”) would not arise to the individual,

so much of the actual sum, or of the aggregate of the actual sums, as is equal to the minimum amount is not “carried interest”.

(See subsections (7) and (8) as to how the minimum amount is to be apportioned between the actual sums where more than one actual sum arises in the tax year.)

(4) For the purposes of subsection (3)(b) assess the risk both—

- (a) in relation to each actual sum (and the investments to which it relates) individually, taking into account also any other sums that might have arisen to the individual under the arrangements instead of that sum, and
- (b) in relation to the actual sum or sums and any other sums that might have arisen to the individual under the arrangements by way of profit-related return in the tax year (and the investments to which all those sums relate) taken as a whole;

(so that, in a particular case, some of the minimum amount may arise by assessing the risk in accordance with paragraph (a) and some by assessing it in accordance with paragraph (b)).

(5) For the purposes of subsection (3)(b) assess the risk as at the latest of—

- (a) the time when the individual becomes party to the arrangements,
- (b) the time when the individual begins to perform investment management services directly or indirectly in respect of the scheme under the arrangements, and
- (c) the time when a material change is made to the arrangements so far as relating to the sums which are to, or may, arise to the individual.

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (6) For the purposes of subsection (3)(b) ignore any risk that a sum is prevented from arising to the individual (by reason of insolvency or otherwise).
- (7) Where more than one actual sum arises in the tax year, the minimum amount is to be apportioned between the actual sums as follows for the purposes of subsection (3)—
  - (a) so much of the minimum amount as is attributable to a particular actual sum is to be apportioned to that actual sum, and
  - (b) so much of the minimum amount as is not attributable to any particular actual sum is to be apportioned between the actual sums on a just and reasonable basis.
- (8) For the purpose of subsection (7) any part of the minimum amount is attributable to a particular actual sum to the extent that there was no significant risk that that part would not arise to the individual in relation to that actual sum, assessing the risk in accordance with subsection (4)(a).

#### **809EZD Sums treated as “carried interest” for purposes of section 809EZB**

- (1) A sum falling within subsection (2) or (3)—
  - (a) is to be assumed to meet the requirements of section 809EZC, and
  - (b) accordingly, is to be treated as constituting “carried interest” for the purposes of section 809EZB.
- (2) A sum falls within this subsection if, under the arrangements, it is to, or may, arise to the individual out of profits on the investments made for the purposes of the scheme, but only after—
  - (a) all, or substantially all, of the investments in the scheme made by the participants have been repaid to the participants, and
  - (b) each external investor has received a preferred return on all, or substantially all, of the investor's investments in the scheme.
- (3) A sum falls within this subsection if, under the arrangements, it is to, or may, arise to the individual out of profits on a particular investment made for the purposes of the scheme, but only after—
  - (a) all, or substantially all, of the relevant investments made by participants have been repaid to those participants, and
  - (b) each of those participants who is an external investor has received a preferred return on all, or substantially all, of the investor's relevant investments;

and for this purpose “relevant investments” means those investments in the scheme to which the particular investment made for the purposes of the scheme is attributable.
- (4) In this section “preferred return” means a return of not less than the amount that would be payable on the investment by way of interest if—
  - (a) compound interest were payable on the investment for the whole of the period during which it was invested in the scheme, and
  - (b) the interest were calculated at a rate of 6% per annum, with annual rests.

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

## 809EZE Interpretation of Chapter

### (1) In this Chapter—

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“collective investment scheme” has the meaning given by section 235 of FISMA 2000;

“external investor”, in relation to an investment scheme and any arrangements, means a participant in the scheme other than—

- (a) an individual who performs investment management services directly or indirectly in respect of the scheme, or
- (b) a person through whom sums are to, or may, arise directly or indirectly to such an individual from the scheme under the arrangements;

“investment management services”, in relation to an investment scheme, includes—

- (a) seeking funds for the purposes of the scheme from participants or potential participants,
- (b) researching potential investments to be made for the purposes of the scheme,
- (c) acquiring, managing or disposing of property for the purposes of the scheme, and
- (d) acting for the purposes of the scheme with a view to assisting a body in which the scheme has made an investment to raise funds;

“investment trust” means a company in relation to which conditions A to C in section 1158 of CTA 2010 are met (or treated as met); and for this purpose “company” has the meaning given by section 1121 of CTA 2010;

“market value” has the same meaning as in TCGA 1992 (see sections 272 and 273 of that Act);

“participant”—

- (a) in relation to a collective investment scheme, is construed in accordance with section 235 of FISMA 2000;
- (b) in relation to an investment trust, means a member of the investment trust;

“profits”, in relation to an investment made for the purposes of an investment scheme, means profits (including unrealised profits) arising from the acquisition, holding, management or disposal of the investment (taking into account items of a revenue nature and items of a capital nature).

(2) In this Chapter a reference to an investment made by a person in an investment scheme is a reference to a contribution by the person (whether by way of capital, loan or otherwise) towards the property subject to the scheme (but does not include a sum committed but not yet invested).

(3) For the purposes of subsection (2) a person who holds a share in an investment scheme which is a company limited by shares and who acquired the share

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

from a person other than the scheme is to be taken to have made a contribution towards the property subject to the scheme equal to—

- (a) the consideration given by the person for the acquisition of the share, or
  - (b) if less, the market value of the share at the time of the acquisition.
- (4) In this Chapter, in relation to an investment scheme which is a company limited by shares—
- (a) references to a repayment of, or a return on, an investment in the scheme include a repayment of, or a return on, an investment represented by a share in the scheme resulting from—
    - (i) the purchase of the share by the scheme,
    - (ii) the redemption of the share by the scheme,
    - (iii) the distribution of assets in respect of the share on the winding up of the scheme, or
    - (iv) any similar process;
  - (b) references to a return on an investment in the scheme include a dividend or similar distribution in respect of a share in the scheme representing the investment.

#### **809EZF Disguised investment management fees: anti-avoidance**

In determining whether section 809EZA applies in relation to an individual, no regard is to be had to any arrangements the main purpose, or one of the main purposes, of which is to secure that that section does not apply in relation to—

- (a) the individual, or
- (b) the individual and one or more other individuals.

#### **809EZG Disguised investment management fees: avoidance of double taxation**

- (1) This section applies where—
- (a) income tax is charged on an individual by virtue of section 809EZA in respect of a disguised fee, and
  - (b) at any time, a tax (whether income tax or another tax) is charged on the individual otherwise than by virtue of section 809EZA in relation to the disguised fee.
- (2) This section also applies where—
- (a) income tax is charged on an individual by virtue of section 809EZA in respect of a disguised fee which arises to the individual under the arrangements by way of a loan or advance,
  - (b) at any time, a tax (whether income tax or another tax) is charged on the individual in relation to another sum which arises to the individual under the arrangements, and
  - (c) some or all of the loan or advance has to be repaid as a result of the other sum having arisen to the individual.
- (3) In order to avoid a double charge to tax, the individual may make a claim for one or more consequential adjustments to be made in respect of the tax charged as mentioned in subsection (1)(b) or (2)(b).

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (4) On a claim under this section an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (5) The value of any consequential adjustments must not exceed the lesser of the income tax charged on the individual as mentioned in subsection (1)(a) or (2) (a) and—
  - (a) where subsection (1) applies, the tax charged as mentioned in subsection (1)(b);
  - (b) where subsection (2) applies, the tax charged as mentioned in subsection (2)(b) in relation to so much of the other sum as does not exceed the amount of the loan or advance that has to be repaid as mentioned in subsection (2)(c).
- (6) Consequential adjustments may be made—
  - (a) in respect of any period,
  - (b) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
  - (c) despite any time limit imposed by or under any enactment.

#### **809EZH Powers to amend Chapter**

- (1) The Treasury may by regulations amend this Chapter—
    - (a) so as to change the definition of “investment scheme” for the purposes of this Chapter;
    - (b) so as to change the definition of “participant” for those purposes;
    - (c) so as to change what is “carried interest” for the purposes of section 809EZH.
  - (2) Regulations under this section may—
    - (a) make different provision for different purposes, and
    - (b) contain incidental, supplemental, consequential and transitional provision and savings.
  - (3) A statutory instrument containing regulations under this section to which subsection (4) applies may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
  - (4) This subsection applies if the regulations contain any provision which has or may have the effect of increasing any person's liability to tax.
  - (5) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.”
- (2) In section 2 of ITA 2007 (overview of Act), in subsection (13)—
    - (a) after paragraph (h) insert—
 

“(ha) disposals of assets through partnerships (Chapter 5D),”;
    - (b) after paragraph (ha) insert—
 

“(hb) disguised investment management fees (Chapter 5E),”.
  - (3) In Schedule 4 to ITA 2007 (index of defined expressions), at the appropriate places insert—

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

“arrangements (in Chapter 5E of Part 13)	section 809EZE(1)”
“collective investment scheme (in Chapter 5E of Part 13)	section 809EZE(1)”
“disguised fee (in Chapter 5E of Part 13)	section 809EZA(3)”
“external investor (in Chapter 5E of Part 13)	section 809EZE(1)”
“investment (in investment scheme) (in Chapter 5E of Part 13)	section 809EZE(2)”
“investment management services (in Chapter 5E of Part 13)	section 809EZE(1)”
“investment scheme (in Chapter 5E of Part 13)	section 809EZA(6)”
“investment trust (in Chapter 5E of Part 13)	section 809EZE(1)”
“market value (in Chapter 5E of Part 13)	section 809EZE(1)”
“participant (in Chapter 5E of Part 13)	section 809EZE(1)”
“profits (on investment made for purposes of investment scheme) (in Chapter 5E of Part 13)	section 809EZE(1)”
“repayment of, and return on, investment in certain investment schemes (in Chapter 5E of Part 13)	section 809EZE(4)”
“sum (in Chapter 5E of Part 13)	section 809EZE(3)”.

(4) The amendments made by subsections (1), (2)(b) and (3) have effect in relation to sums arising on or after 6 April 2015 (whenever the arrangements under which the sums arise were made).

## 22 Miscellaneous loss relief **U.K.**

(1) Chapter 7 of Part 4 of ITA 2007 (losses from miscellaneous transactions) is amended as follows.

(2) In section 152 (losses from miscellaneous transactions)—

(a) for subsection (1) substitute—

“(1) If in a tax year (“the loss-making year”) a person makes a loss in a relevant transaction, the person may make a claim for loss relief against relevant miscellaneous income.”;

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (b) in subsection (2)(a), for “section 1016 income” substitute “ income on which income tax is charged under, or by virtue of, a relevant section 1016 provision (“the relevant provision”) ”;
- (c) after subsection (2) insert—
  - “(2A) A relevant section 1016 provision” means a provision to which section 1016 applies, other than—
    - (a) regulation 17 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) (treatment of participants in non-reporting funds: charge to tax on disposal of asset), or
    - (b) Chapter 9 of Part 4 of ITTOIA 2005 (gains from contracts for life insurance etc).”;
  - (d) in subsection (4), after “person's” insert “ relevant ”;
  - (e) in subsection (5), for “A person's miscellaneous income” substitute “ The person's “relevant miscellaneous income”, in relation to the loss, ”;
  - (f) for paragraph (b) of that subsection substitute—
    - “(b) income on which income tax is charged under, or by virtue of, the relevant provision.”;
  - (g) in subsection (7), before “miscellaneous”, in both places it appears, insert “ relevant ”;
  - (h) omit subsection (8);
  - (i) in subsection (9), omit the “and” at the end of paragraph (b) and after that paragraph insert—
    - “(ba) section 154A (anti-avoidance), and”.
- (3) In section 153 (how relief works), before “miscellaneous”, in each place it appears, insert “ relevant ”.
- (4) In section 154 (transactions in deposit rights), in subsection (3)—
  - (a) after “against” insert “ relevant ”, and
  - (b) for the words from the second “miscellaneous” to the end substitute “ relevant miscellaneous income, for the tax year, in relation to the loss. ”
- (5) Before section 155 (time limit for claiming relief), but after the italic heading before that section (supplementary), insert—

**“154A Anti-avoidance**

- (1) Subsection (2) applies if—
  - (a) a person makes a loss in a relevant transaction, and
  - (b) that loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (2) The person is not to be given loss relief under section 152 for the loss.
- (3) Subsection (4) applies if—
  - (a) a person has income on which income tax is chargeable under, or by virtue of, a relevant section 1016 provision, and
  - (b) that income arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.
- (4) The person is not to be given loss relief against that income under section 152.



---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (5) In this section “relevant tax avoidance arrangements” means arrangements—
- (a) to which the person is party, and
  - (b) the main purpose, or one of the main purposes, of which is to obtain a reduction in tax liability by means of loss relief under section 152.
- (6) In subsection (5) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).”
- (6) In section 155 (time limit for claiming relief), in subsections (1) and (2), before “miscellaneous” insert “relevant ”.
- (7) In consequence of subsection (2)(h), in FA 2009, omit section 69.
- (8) The amendments made by subsections (2)(a) to (h), (3), (4), (6) and (7)—
- (a) have effect for the tax year 2015-16 and subsequent tax years, and
  - (b) apply in relation to a loss whether it is made before, during or after that tax year.
- (9) The amendments made by subsections (2)(i) and (5) have effect in relation to losses and income arising on or after 3 December 2014 directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements (whenever the arrangements are made).
- (10) Subsection (4) of section 154A of ITA 2007 (inserted by subsection (5) of this section) applies in relation to loss relief, under section 152 of that Act, for losses whenever made.
- (11) In relation to income arising on or after 3 December 2014 but before the beginning of the tax year 2015-16, section 154A of ITA 2007 has effect as if for paragraph (a) of subsection (3) of that section there were substituted—
- “(a) a person has section 1016 income (within the meaning of section 152), and”.

## 23 Exceptions from duty to deduct tax: qualifying private placements **U.K.**

- (1) In Chapter 3 of Part 15 of ITA 2007 (deduction of tax from certain payments of yearly interest), after section 888 insert—

### “888A Qualifying private placements

- (1) The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest on a qualifying private placement.
- (2) “Qualifying private placement” means a security—
  - (a) which represents a loan relationship to which a company is a party as debtor,
  - (b) which is not listed on a recognised stock exchange, and
  - (c) in relation to which such other conditions as the Treasury may specify by regulations are met.
- (3) The conditions which may be specified under subsection (2)(c) include conditions relating to—

---

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)*

---

- (a) the security itself,
  - (b) the loan relationship represented by the security,
  - (c) the terms on which, or circumstances under which, the security or loan relationship is entered into,
  - (d) the company which is party to the loan relationship as debtor,
  - (e) any person by or through whom a payment of interest on the security is made, or
  - (f) the holder of the security.
- (4) Regulations under this section may make provision about the consequences of failing to make a deduction under section 874, in respect of a payment of interest on a security, in cases where the person required to make the deduction had a reasonable, but mistaken, belief that the security was a qualifying private placement.
- (5) Regulations under this section may—
- (a) make different provision for different cases;
  - (b) contain incidental, supplemental, consequential and transitional provision and savings.
- (6) In this section “loan relationship” has the same meaning as in Part 5 of CTA 2009.”
- (2) Any power conferred on the Treasury by virtue of subsection (1) to make regulations comes into force on the day on which this Act is passed.
- (3) So far as not already brought into force by subsection (2), the amendment made by this section comes into force on such day as the Treasury may by regulations appoint.
- (4) Section 1014(4) of ITA 2007 (regulations etc subject to annulment) does not apply to regulations under subsection (3).

#### **Commencement Information**

**I4** S. 23 in force at 1.1.2016 for the purposes of the amendment made by that section in so far as not already in force by S.I. 2015/2035, reg. 2

## **24 Increased remittance basis charge U.K.**

- (1) Chapter A1 of Part 14 of ITA 2007 (remittance basis) is amended as follows.
- (2) In section 809C (claim for remittance basis by long-term UK resident: nomination of foreign income and gains to which section 809H(2) is to apply)—
- (a) in subsection (1)(b), after “meets” insert “ the 17-year residence test, ”;
  - (b) after subsection (1) insert—
    - “(1ZA) An individual meets the 17-year residence test for a tax year if the individual has been UK resident in at least 17 of the 20 tax years immediately preceding that year.”;
  - (c) in subsection (1A), after “the individual” insert—
    - “(a) does not meet the 17-year residence test for that year, but
    - (b)”;

---

**Changes to legislation:** There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2. (See end of Document for details)

---

- (d) in subsection (1B)(a), after “meet” insert “ the 17-year residence test or ”;
  - (e) in subsection (4)—
    - (i) before paragraph (a) insert—
      - “(za) for an individual who meets the 17-year residence test for that year, £90,000;”;
    - (ii) in paragraph (a), for “£50,000” substitute “ £60,000 ”.
- (3) In section 809H (claim for remittance basis by long-term UK resident: charge)—
- (a) in subsection (1)(c), after “meets” insert “ the 17-year residence test, ”;
  - (b) in subsection (1A)—
    - (i) for “809C(1A)” substitute “ 809C(1ZA), (1A) ”;
    - (ii) after “meets” insert “ the 17-year residence test, ”;
  - (c) in subsection (5B)—
    - (i) before paragraph (a) insert—
      - “(za) if the individual meets the 17-year residence test for the relevant tax year, £90,000;”;
    - (ii) in paragraph (a), for “£50,000” substitute “ £60,000 ”.
- (4) The amendments made by this section have effect for the tax year 2015-16 and subsequent tax years.

**Changes to legislation:**

There are currently no known outstanding effects for the Finance Act 2015, CHAPTER 2.