



# Finance (No. 2) Act 2015

## 2015 CHAPTER 33

### PART 1

#### PRINCIPAL RATES ETC

##### *Tax lock*

#### **1 Income tax lock**

- (1) For any tax year to which this section applies—
  - (a) the basic rate of income tax shall not exceed 20%,
  - (b) the higher rate of income tax shall not exceed 40%, and
  - (c) the additional rate of income tax shall not exceed 45%.
- (2) This section applies to a tax year—
  - (a) which begins after the day on which this Act is passed but before the date of the first parliamentary general election after that day, and
  - (b) for which income tax is charged.

#### **2 VAT lock**

- (1) The rate of value added tax for the time being in force under section 2 of VATA 1994 (standard rate) shall not exceed 20% during the VAT lock period.
- (2) The rate of value added tax for the time being in force under section 29A of VATA 1994 (reduced rate) shall not exceed 5% during the VAT lock period.
- (3) No supply specified in Schedule 7A to VATA 1994 (charge at reduced rate) at the beginning of the VAT lock period may be removed from it under section 29A(3) of that Act during that period.
- (4) No goods, services or supply specified in Schedule 8 to VATA 1994 (zero-rating) at the beginning of the VAT lock period may be removed from it under section 30(4) of that Act during that period.

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- (5) In this section the “VAT lock period” means the period beginning with the day on which this Act is passed and ending immediately before the date of the first parliamentary general election after that day.

*Personal allowance and basic rate limit for income tax*

### 3 Personal allowance and national minimum wage

- (1) After section 57 of ITA 2007 insert—

**“57A Personal allowance linked to national minimum wage**

- (1) This section provides for increases in the amount specified in section 35(1) (personal allowance).
- (2) It applies in relation to a tax year if—
- (a) the relevant national minimum wage at the start of the tax year is greater than it was at the start of the previous tax year, and
  - (b) the amount specified in section 35(1) immediately before the start of the tax year is at least £12,500.
- (3) For the tax year, the personal allowance specified in section 35(1) is to be the yearly equivalent of the relevant national minimum wage at the start of the tax year.
- (4) Subsections (1) to (3) do not require a change to be made in the amounts deductible or repayable under PAYE regulations during the period beginning on 6 April and ending on 17 May in the tax year.
- (5) Before the start of the tax year the Treasury must make an order replacing the amount specified in section 35(1) with the amount which, as a result of this section, is the personal allowance for the tax year.
- (6) For the purposes of this section, the “relevant national minimum wage”, at any time, is—
- (a) the hourly rate prescribed under section 3(2)(b) of the National Minimum Wage Act 1998 in relation to persons aged 21, or
  - (b) if no hourly rate is so prescribed in relation to such persons, the single hourly rate prescribed under section 1(3) of that Act.
- (7) For the purposes of this section, the yearly equivalent of the relevant national minimum wage at any time is the amount equal to—

$$\text{NMW} \times 30 \times 52$$

where NMW is the relevant national minimum wage at that time.”

- (2) In section 57 of ITA 2007 (indexation of allowances), at the end insert—

- “(8) This section ceases to have effect in relation to the amount specified in section 35(1) when that amount becomes (by virtue of this section or otherwise) an amount of £12,500 or more.”

- (3) In section 1014 of ITA 2007 (orders and regulations), in subsection (5)(b), after subparagraph (ii) insert—

“(ia) section 57A (personal allowance linked to national minimum wage),”.

#### **4 Personal allowance and national minimum wage: Chancellor’s duties**

- (1) This section applies where the personal allowance for income tax for the time being specified in section 35(1) of ITA 2007 is less than £12,500.
- (2) Before the Chancellor of the Exchequer announces a proposal to increase that allowance to an amount which is less than £12,500, he or she must consider the financial effect of the proposal on a person paid the relevant national minimum wage.
- (3) If such a proposal is announced, the Chancellor of the Exchequer must make a statement as to what he or she considers that that financial effect would be.
- (4) In this section—
- “person paid the relevant national minimum wage” means a person who works for 30 hours a week for a year at the relevant national minimum wage;
  - “relevant national minimum wage” means—
    - (a) the hourly rate prescribed under section 3(2)(b) of the National Minimum Wage Act 1998 in relation to persons aged 21, or
    - (b) if no hourly rate is so prescribed in relation to such persons, the single hourly rate prescribed under section 1(3) of that Act.
- (5) This section ceases to have effect when the allowance referred to in subsection (1) becomes an amount of £12,500 or more.

#### **5 Personal allowance from 2016**

In section 5(1) of FA 2015 (personal allowance from 2016)—

- (a) in paragraph (a) (personal allowance for 2016-17), for “£10,800” substitute “£11,000”, and
- (b) in paragraph (b) (personal allowance for 2017-18), for “£11,000” substitute “£11,200”.

#### **6 Basic rate limit from 2016**

In section 4(1) of FA 2015 (basic rate limit from 2016)—

- (a) in paragraph (a) (basic rate limit for 2016-17), for “£31,900” substitute “£32,000”, and
- (b) in paragraph (b) (basic rate limit for 2017-18), for “£32,300” substitute “£32,400”.

### *Corporation tax*

#### **7 Rate of corporation tax for financial years 2017-2020**

- (1) For the financial years 2017, 2018 and 2019 the main rate of corporation tax is 19%.

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- (2) For the financial year 2020 the main rate of corporation tax is 18%.

### *Capital allowances*

## **8 Annual investment allowance**

- (1) In section 51A of CAA 2001 (entitlement to annual investment allowance), for the amount specified in subsection (5) as the maximum allowance (which in the absence of this section would be £25,000 in relation to expenditure incurred on or after 1 January 2016) substitute “£200,000”.
- (2) The amendment made by subsection (1) has effect in relation to expenditure incurred on or after 1 January 2016.
- (3) Subsection (2) is subject to paragraphs 4 and 5 of Schedule 2 to FA 2014 (which relate to cases involving chargeable periods which begin before 1 January 2016 and end on or after that day).

## **PART 2**

### INHERITANCE TAX

#### *Rate bands*

## **9 Increased nil-rate band where home inherited by descendants**

- (1) IHTA 1984 is amended as follows.
- (2) In section 7(1) (rates at which inheritance tax charged on the value transferred by a chargeable transfer) after “Subject to subsections (2), (4) and (5) below and to” insert “section 8D and”.
- (3) In section 8A(2) (test for whether person has unused nil-rate band on death), in the definition of M (maximum amount transferable at 0%), after “were sufficient but” insert “that the maximum amount chargeable at nil per cent. under section 8D(2) is equal to the person’s residence nil-rate amount and”.
- (4) After section 8C insert—

#### **“8D Extra nil-rate band on death if interest in home goes to descendants etc**

- (1) Subsections (2) and (3) apply for the purpose of calculating the amount of the charge to tax under section 4 on a person’s death if the person dies on or after 6 April 2017.
- (2) If the person’s residence nil-rate amount is greater than nil, the portion of VT that does not exceed the person’s residence nil-rate amount is charged at the rate of 0%.

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- (3) References in section 7(1) to the value transferred by the chargeable transfer under section 4 on the person's death are to be read as references to the remainder (if any) of VT.
- (4) The person's residence nil-rate amount is calculated in accordance with sections 8E to 8G.
- (5) For the purposes of those sections and this section—
- (a) the “residential enhancement” is—
    - (i) £100,000 for the tax year 2017-18,
    - (ii) £125,000 for the tax year 2018-19,
    - (iii) £150,000 for the tax year 2019-20, and
    - (iv) £175,000 for the tax year 2020-21 and subsequent tax years,but this is subject to subsections (6) and (7),
  - (b) the “taper threshold” is £2,000,000 for the tax year 2017-18 and subsequent tax years, but this is subject to subsections (6) and (7),
  - (c) TT is the taper threshold at the person's death,
  - (d) E is the value of the person's estate immediately before the person's death,
  - (e) VT is the value transferred by the chargeable transfer under section 4 on the person's death,
  - (f) the person's “default allowance” is the total of—
    - (i) the residential enhancement at the person's death, and
    - (ii) the person's brought-forward allowance (see section 8G), and
  - (g) the person's “adjusted allowance” is—
    - (i) the person's default allowance, less
    - (ii) the amount given by—
$$\frac{E - TT}{2}$$
- but is nil if that amount is greater than the person's default allowance.
- (6) Subsection (7) applies if—
- (a) the consumer prices index for the month of September in any tax year (“the prior tax year”) is higher than it was for the previous September, and
  - (b) the prior tax year is the tax year 2020-21 or a later tax year.
- (7) Unless Parliament otherwise determines, the amount of each of—
- (a) the residential enhancement for the tax year following the prior tax year, and
  - (b) the taper threshold for that following tax year,
- is its amount for the prior tax year increased by the same percentage as the percentage increase in the index and, if the result is not a multiple of £1,000, rounded up to the nearest amount which is such a multiple.
- (8) The Treasury must before 6 April 2021 and each subsequent 6 April make an order specifying the amounts that in accordance with subsections (6) and (7) are the residential enhancement and taper threshold for the tax year beginning on that date; and any such order is to be made by statutory instrument.

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(9) In this section—

“tax year” means a year beginning on 6 April and ending on the following 5 April, and

“the tax year 2017-18” means the tax year beginning on 6 April 2017 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).

**8E Residence nil-rate amount: interest in home goes to descendants etc**

(1) Subsections (2) to (7) apply if—

- (a) the person’s estate immediately before the person’s death includes a qualifying residential interest, and
- (b) N% of the interest is closely inherited, where N is a number—
  - (i) greater than 0, and
  - (ii) less than or equal to 100,

and in those subsections “NV/100” means N% of so much (if any) of the value transferred by the transfer of value under section 4 as is attributable to the interest.

(2) Where—

- (a) E is less than or equal to TT, and
- (b) NV/100 is less than the person’s default allowance,

the person’s residence nil-rate amount is equal to NV/100 and an amount, equal to the difference between NV/100 and the person’s default allowance, is available for carry-forward.

(3) Where—

- (a) E is less than or equal to TT, and
- (b) NV/100 is greater than or equal to the person’s default allowance,

the person’s residence nil-rate amount is equal to the person’s default allowance (and no amount is available for carry-forward).

(4) Where—

- (a) E is greater than TT, and
- (b) NV/100 is less than the person’s adjusted allowance,

the person’s residence nil-rate amount is equal to NV/100 and an amount, equal to the difference between NV/100 and the person’s adjusted allowance, is available for carry-forward.

(5) Where—

- (a) E is greater than TT, and
- (b) NV/100 is greater than or equal to the person’s adjusted allowance,

the person’s residence nil-rate amount is equal to the person’s adjusted allowance (and no amount is available for carry-forward).

(6) Subsections (2) to (5) have effect subject to subsection (7).

(7) Where the person’s residence nil-rate amount as calculated under subsections (2) to (5) without applying this subsection is greater than VT—

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- (a) subsections (2) to (5) have effect as if each reference in them to NV/100 were a reference to VT,
- (b) each of subsections (3) and (5) has effect as if it provided that the person's residence nil-rate amount were equal to VT (rather than the person's default allowance or, as the case may be, the person's adjusted allowance).

- (8) See also—
- section 8H (meaning of “qualifying residential interest”),
  - section 8J (meaning of “inherit”),
  - section 8K (meaning of “closely inherited”), and
  - section 8M (cases involving conditional exemption).

### **8F Residence nil-rate amount: no interest in home goes to descendants etc**

- (1) Subsections (2) and (3) apply if the person's estate immediately before the person's death—
- (a) does not include a qualifying residential interest, or
  - (b) includes a qualifying residential interest but none of the interest is closely inherited.
- (2) The person's residence nil-rate amount is nil.
- (3) An amount—
- (a) equal to the person's default allowance, or
  - (b) if E is greater than TT, equal to the person's adjusted allowance, is available for carry-forward.
- (4) See also—
- section 8H (meaning of “qualifying residential interest”),
  - section 8J (meaning of “inherit”),
  - section 8K (meaning of “closely inherited”), and
  - section 8M (cases involving conditional exemption).

### **8G Meaning of “brought-forward allowance”**

- (1) This section is about the amount of the brought-forward allowance (see section 8D(5)(f)) for a person (“P”) who dies on or after 6 April 2017.
- (2) In this section “related person” means a person other than P where—
- (a) the other person dies before P, and
  - (b) immediately before the other person dies, P is the other person's spouse or civil partner.
- (3) P's brought-forward allowance is calculated as follows—
- (a) identify each amount available for carry-forward from the death of a related person (see sections 8E and 8F, and subsections (4) and (5)),
  - (b) express each such amount as a percentage of the residential enhancement at the death of the related person concerned,
  - (c) calculate the percentage that is the total of those percentages, and

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- (d) the amount that is that total percentage of the residential enhancement at P's death is P's brought-forward allowance or, if that total percentage is greater than 100%, P's brought-forward allowance is the amount of the residential enhancement at P's death,  
but P's brought-forward allowance is nil if no claim for it is made under section 8L.
- (4) Where the death of a related person occurs before 6 April 2017—
- (a) an amount equal to £100,000 is treated for the purposes of subsection (3) as being the amount available for carry-forward from the related person's death, but this is subject to subsection (5), and
- (b) the residential enhancement at the related person's death is treated for those purposes as being £100,000.
- (5) If the value ("RPE") of the related person's estate immediately before the related person's death is greater than £2,000,000, the amount treated under subsection (4)(a) as available for carry-forward is reduced (but not below nil) by—

$$\frac{\text{RPE} - \text{£2,000,000}}{2}$$

#### **8H Meaning of "qualifying residential interest"**

- (1) This section applies for the purposes of sections 8E and 8F.
- (2) In this section "residential property interest", in relation to a person, means an interest in a dwelling-house which has been the person's residence at a time when the person's estate included that, or any other, interest in the dwelling-house.
- (3) Where a person's estate immediately before the person's death includes residential property interests in just one dwelling-house, the person's interests in that dwelling-house are a qualifying residential interest in relation to the person.
- (4) Where—
- (a) a person's estate immediately before the person's death includes residential property interests in each of two or more dwelling-houses, and
- (b) the person's personal representatives nominate one (and only one) of those dwelling-houses,
- the person's interests in the nominated dwelling-house are a qualifying residential interest in relation to the person.
- (5) A reference in this section to a dwelling-house—
- (a) includes any land occupied and enjoyed with it as its garden or grounds, but
- (b) does not include, in the case of any particular person, any trees or underwood in relation to which an election is made under section 125 as it applies in relation to that person's death.
- (6) If at any time when a person's estate includes an interest in a dwelling-house, the person—



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- (a) resides in living accommodation which for the person is job-related, and
- (b) intends in due course to occupy the dwelling-house as the person's residence,

this section applies as if the dwelling-house were at that time occupied by the person as a residence.

- (7) Section 222(8A) to (8D) of the 1992 Act (meaning of “job-related”), but not section 222(9) of that Act, apply for the purposes of subsection (6).

### **8J Meaning of “inherited”**

- (1) This section explains for the purposes of sections 8E and 8F whether a person (“B”) inherits, from a person who has died (“D”), property which forms part of D's estate immediately before D's death.
- (2) B inherits the property if there is a disposition of it (whether effected by will, under the law relating to intestacy or otherwise) to B.
- (3) Subsection (2) does not apply if—
  - (a) the property becomes comprised in a settlement on D's death, or
  - (b) immediately before D's death, the property was settled property in which D was beneficially entitled to an interest in possession.
- (4) Where the property becomes comprised in a settlement on D's death, B inherits the property if—
  - (a) B becomes beneficially entitled on D's death to an interest in possession in the property, and that interest in possession is an immediate post-death interest or a disabled person's interest, or
  - (b) the property becomes, on D's death, settled property—
    - (i) to which section 71A or 71D applies, and
    - (ii) held on trusts for the benefit of B.
- (5) Where, immediately before D's death, the property was settled property in which D was beneficially entitled to an interest in possession, B inherits the property if B becomes beneficially entitled to it on D's death.
- (6) Where the property forms part of D's estate immediately before D's death as a result of the operation of section 102(3) of the Finance Act 1986 (gifts with reservation) in relation to a disposal of the property made by D by way of gift, B inherits the property if B is the person to whom the disposal was made.

### **8K Meaning of “closely inherited”**

- (1) In relation to the death of a person (“D”), something is “closely inherited” for the purposes of sections 8E and 8F if it is inherited for those purposes (see section 8J) by—
  - (a) a lineal descendant of D,
  - (b) a person who, at the time of D's death, is the spouse or civil partner of a lineal descendant of D, or
  - (c) a person who—

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- (i) at the time of the death of a lineal descendant of D who died no later than D, was the spouse or civil partner of the lineal descendant, and
  - (ii) has not, in the period beginning with the lineal descendant's death and ending with D's death, become anyone's spouse or civil partner.
- (2) The rules in subsections (3) to (8) apply for the interpretation of subsection (1).
- (3) A person who is at any time a step-child of another person is to be treated, at that and all subsequent times, as if the person was that other person's child.
- (4) Any rule of law, so far as it requires an adopted person to be treated as not being the child of a natural parent of the person, is to be disregarded (but this is without prejudice to any rule of law requiring an adopted person to be treated as the child of an adopter of the person).
- (5) A person who is at any time fostered by a foster parent is to be treated, at that and all subsequent times, as if the person was the foster parent's child.
- (6) Where—
  - (a) an individual ("G") is appointed (or is treated by law as having been appointed) under section 5 of the Children Act 1989, or under corresponding law having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, as guardian (however styled) of another person, and
  - (b) the appointment takes effect at a time when the other person ("C") is under the age of 18 years,
 C is to be treated, at all times after the appointment takes effect, as if C was G's child.
- (7) Where—
  - (a) an individual ("SG") is appointed as a special guardian (however styled) of another person ("C") by an order of a court—
    - (i) that is a special guardianship order as defined by section 14A of the Children Act 1989, or
    - (ii) that is a corresponding order under legislation having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, and
  - (b) the appointment takes effect at a time when C is under the age of 18 years,
 C is to be treated, at all times after the appointment takes effect, as if C was SG's child.
- (8) In particular, where under any of subsections (3) to (7) one person is to be treated at any time as the child of another person, that first person's lineal descendants (even if born before that time) are accordingly to be treated at that time (and all subsequent times) as lineal descendants of that other person.
- (9) In subsection (4) "adopted person" means—
  - (a) an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002, or

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- (b) a person who would be an adopted person within the meaning of that Chapter if, in section 66(1)(e) of that Act and section 38(1)(e) of the Adoption Act 1976, the reference to the law of England and Wales were a reference to the law of any part of the United Kingdom.
- (10) In subsection (5) “foster parent” means—
- (a) someone who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989,
  - (b) a foster parent with whom the person is placed by a voluntary organisation under section 59(1)(a) that Act,
  - (c) someone who looks after the person in circumstances in which the person is a privately fostered child as defined by section 66 of that Act, or
  - (d) someone who, under legislation having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, is a foster parent (however styled) corresponding to a foster parent within paragraph (a) or (b).

### **8L Claims for brought-forward allowance**

- (1) A claim for brought-forward allowance for a person (see section 8G) may be made—
- (a) by the person’s personal representatives within the permitted period, or
  - (b) (if no claim is so made) by any other person liable to the tax chargeable on the person’s death within such later period as an officer of Revenue and Customs may in the particular case allow.
- (2) In subsection (1)(a) “the permitted period” means—
- (a) the period of 2 years from the end of the month in which the person dies or (if it ends later) the period of 3 months beginning with the date on which the personal representatives first act as such, or
  - (b) such longer period as an officer of Revenue and Customs may in the particular case allow.
- (3) A claim under subsection (1) made within either of the periods mentioned in subsection (2)(a) may be withdrawn no later than one month after the end of the period concerned.
- (4) Subsection (5) applies if—
- (a) no claim under this section has been made for brought-forward allowance for a person (“P”),
  - (b) the amount of the charge to tax under section 4 on the death of another person (“A”) would be different if a claim under subsection (1) had been made for brought-forward allowance for P, and
  - (c) the amount of the charge to tax under section 4 on the death of P, and the amount of the charge to tax under section 4 on the death of any person who is neither P nor A, would not have been different if a claim under subsection (1) had been made for brought-forward allowance for P.

- (5) A claim for brought-forward allowance for P may be made—
- (a) by A's personal representatives within the allowed period, or
  - (b) (if no claim is so made) by any other person liable to the tax chargeable on A's death within such later period as an officer of Revenue and Customs may in the particular case allow.
- (6) In subsection (5)(a) "the allowed period" means—
- (a) the period of 2 years from the end of the month in which A dies or (if it ends later) the period of 3 months beginning with the date on which the personal representatives first act as such, or
  - (b) such longer period as an officer of Revenue and Customs may in the particular case allow.
- (7) A claim under subsection (5) made within either of the periods mentioned in subsection (6)(a) may be withdrawn no later than one month after the end of the period concerned.

### **8M Residence nil-rate amount: cases involving conditional exemption**

- (1) This section applies where—
- (a) the estate of a person ("D") immediately before D's death includes a qualifying residential interest,
  - (b) D dies on or after 6 April 2017, and
  - (c) some or all of the transfer of value under section 4 on D's death is a conditionally exempt transfer of property consisting of, or including, some or all of the qualifying residential interest.
- (2) For the purposes of sections 8E and 8F, but subject to subsection (3), the exempt percentage of the qualifying residential interest is treated as being not closely inherited; and for this purpose "the exempt percentage" is given by—

$$\frac{X}{QRI} \times 100$$

where—

X is the attributable portion of the value transferred by the conditionally exempt transfer,

QRI is the attributable portion of the value transferred by the transfer under section 4, and

"the attributable portion" means the portion (which may be the whole) attributable to the qualifying residential interest.

- (3) For the purposes of calculating tax chargeable under section 32 or 32A by reference to a chargeable event related to the qualifying residential interest where D is the relevant person for the purposes of section 33—
- (a) in subsection (2), X is calculated as if the property forming the subject-matter of the conditionally exempt transfer had not included the property on which the tax is chargeable,
  - (b) section 33 has effect as if for subsection (1)(b)(ii) there were substituted—
    - (ii) if the relevant person is dead, the rate or rates that would have applied to that amount in

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accordance with section 8D(2) and (3) above and the appropriate provision of section 7 above if—

- (a) that amount had been added to the value transferred on the relevant person's death, and
  - (b) the unrelieved portion of that amount had formed the highest part of that value.”, and
- (c) for the purposes of that substituted section 33(1)(b)(ii) “the unrelieved portion” of the amount on which tax is chargeable is that amount itself less the amount (if any) by which—
- (i) D's residence nil-rate amount for the purposes of the particular calculation under section 33, exceeds
  - (ii) D's residence nil-rate amount for the purposes of the charge to tax under section 4 on D's death.
- (4) The following provisions of this section apply if immediately before D's death there is a person (“P”) who is D's spouse or civil partner.
- (5) For the purposes of calculating tax chargeable under section 32 or 32A by reference to a chargeable event related to the qualifying residential interest which occurs after P's death, the amount that would otherwise be D's residence nil-rate amount for those purposes is reduced by the amount (if any) by which P's residence nil-rate amount, or the residence nil-rate amount of any person who dies after P but before the chargeable event occurs, was increased by reason of an amount being available for carry-forward from D's death.
- (6) Where tax is chargeable under section 32 or 32A by reference to a chargeable event related to the qualifying residential interest which occurs before P's death, section 8G(3) has effect for the purpose of calculating P's brought-forward allowance as if—
- (a) before the “and” at the end of paragraph (c) there were inserted—
    - “(ca) reduce that total (but not below nil) by deducting from it the recapture percentage.”,
  - (b) in paragraph (d), before “total”, in both places, there were inserted “reduced”, and
  - (c) the reference to the recapture percentage were to the percentage given by—

$$\frac{TA}{REE} \times 100$$

where—

REE is the residential enhancement at the time of the chargeable event, and

TA is the amount on which tax is chargeable under section 32 or 32A.

- (7) If subsection (6) has applied by reason of a previous event or events related to the qualifying residential interest, the reference in subsection (6)(c) to the fraction—

TA  
REE »

## 10 Rate bands for tax years 2018-19, 2019-20 and 2020-21

Section 8 of IHTA 1984 (indexation) does not have effect by virtue of any difference between—

- (a) the consumer prices index for the month of September in 2017, 2018 or 2019, and
- (b) that index for the previous September.

*Settlements*

## 11 Calculation of rate of inheritance tax on settled property

Schedule 1 contains provision about calculating the rate at which inheritance tax is charged under Chapter 3 of Part 3 of IHTA 1984.

## 12 Exemption from ten-yearly charge for heritage property

(1) Section 79 of IHTA 1984 (exemption from ten-yearly charge) is amended as follows.

(2) In subsection (3)—

- (a) for “then, if” substitute “subsection (3A) below applies if”,
- (b) in paragraph (a), for “has, on a claim made for the purpose, been” substitute “is, on a claim made for the purpose,”,
- (c) after that paragraph insert—
  - “(aa) that claim is made during the period beginning with the date of a ten-year anniversary of the settlement (“the relevant ten-year anniversary”) and ending—
    - (i) two years after that date, or
    - (ii) on such later date as the Board may allow,”
- (d) in paragraph (b)—
  - (i) for “that section has been given” substitute “section 31 is given”, and
  - (ii) for “have been given” substitute “are given”, and
- (e) omit the words from “section 64” to the end.

(3) After that subsection insert—

“(3A) Tax is not chargeable under section 64 above in relation to the property by reference to the relevant ten-year anniversary concerned or any subsequent ten-year anniversaries; but on the first occurrence of an event which, if there had been a conditionally exempt transfer of the property immediately before that relevant ten-year anniversary, would be a chargeable event with respect to the property—

- (a) there is a charge to tax under this subsection, and
- (b) on any ten-year anniversary falling after that event, tax is chargeable under section 64 above in relation to the property.”

- (4) In subsection (4), for the words from “subsection (3)” to “mentioned” substitute “subsection (3A) above in respect of property if, after the occasion mentioned in subsection (3) above and before the occurrence mentioned in subsection (3A)”.
- (5) In subsections (5), (5A), (6), (8)(a) and (9A)(a) for “subsection (3)” substitute “subsection (3A)”.
- (6) In subsection (7A), in paragraph (c), for the words from “day” to “section” substitute “relevant ten-year anniversary”.
- (7) In subsection (8)—
  - (a) in paragraph (a), for the words from “on the first” to the end substitute “by reference to the relevant ten-year anniversary of the settlement”, and
  - (b) in paragraph (c), omit “, and the claim was made and the undertaking was given,”.
- (8) Accordingly, in that Act—
  - (a) in section 207 (liability: conditional exemption), in subsection (3), for “section 79(3)” substitute “section 79(3A)”,
  - (b) in section 233 (interest on unpaid tax), in subsection (1)(c), for “79(3)” substitute “79(3A)”,
  - (c) in section 237 (imposition of charge), in subsection (3B)(a), for “or 79(3)” substitute “or 79(3A)”, and
  - (d) in Schedule 4 (maintenance funds for historic buildings), in paragraph 3(2)(c), for “or 79(3)” substitute “or 79(3A)”.
- (9) The amendments made by this section have effect in relation to occasions on which tax would (ignoring the effect of the amendments) fall to be charged under section 64 of IHTA 1984 on or after the day on which this Act is passed.

### **13 Settlements with initial interest in possession**

- (1) In section 80 of IHTA 1984 (initial interest of settlor or spouse or civil partner), for “an interest in possession”, in each place it appears, substitute “a qualifying interest in possession”.
- (2) The amendments made by this section come into force on the day after the day on which this Act is passed subject to the saving provision in subsections (3) to (7).
- (3) Subsections (4) to (7) apply where—
  - (a) the occasion first referred to in subsection (1) of section 80 of IHTA 1984 occurred before 22 March 2006,
  - (b) on that occasion the settlor, or the settlor’s spouse or civil partner, became beneficially entitled to an interest in possession in property which, as a result of that subsection, was treated as not becoming comprised in a settlement for the purposes of Chapter 3 of Part 3 of IHTA 1984 on that occasion, and
  - (c) at all times in the relevant period that property, or some particular part of it, has been property in which the settlor, or the settlor’s spouse or civil partner, has been beneficially entitled to an interest in possession,and in subsections (4) to (7) “the protected property” means that property or, as the case may be, that particular part of it.

- (4) The amendments made by subsection (1) do not have effect in relation to any particular part of the protected property for so long as the subsisting interest in possession continues to subsist in that part (but see subsections (5) and (6) for what happens afterwards).
- (5) As from immediately before the time when the subsisting interest in possession comes to an end so far as subsisting in any particular part of the protected property (whether or not it also comes to an end at the same time so far as subsisting in some or all of the rest of the protected property), section 80(1) of IHTA 1984 has effect in relation to that part as if the second appearance of “an interest in possession” were “a qualifying interest in possession”.
- (6) If (ignoring this subsection), subsection (5) would have the consequence that a particular part of the protected property is treated as becoming comprised in a separate settlement at a time earlier than the time at which the subsisting interest in possession comes to an end so far as subsisting in that part, that part is to be treated as becoming comprised in a separate settlement at that later time.
- (7) In this section—
- (a) “the relevant period” means the period beginning with the occasion first mentioned in section 80(1) of IHTA 1984 and ending with the day on which this Act is passed,
  - (b) “qualifying interest in possession” has the same meaning as in section 80(1) of IHTA 1984,
  - (c) “subsisting interest in possession”, in relation to a part of the protected property, means the interest in possession which subsisted in that part immediately before the end of the relevant period, and
  - (d) the reference in subsection (3)(c) to the spouse or civil partner of a settlor includes a reference to the widow or widower or surviving civil partner of the settlor.

#### **14 Distributions etc from property settled by will**

- (1) In section 144 of IHTA 1984 (distributions etc from property settled by will), in subsection (1)(b), after “section” insert “65(4),”.
- (2) The amendment made by this section has effect in cases where the testator’s death occurs on or after 10 December 2014.

#### *Interest*

#### **15 Inheritance tax: interest**

- (1) In section 107 of FA 1986 (changes in financial institutions: interest)—
- (a) in subsection (4), for the words from “section 234(4)” to “above)” substitute “paragraph 7(8) of Schedule 53 to the Finance Act 2009 (late payment interest: inheritance tax payable by instalments)”;
  - (b) in subsection (5), for the words from “amend” to “section 234(3)(c)” substitute “set out one or more descriptions of company for the purposes of paragraph 7(7) of Schedule 53 to the Finance Act 2009”.
- (2) In Schedule 53 to FA 2009 (special provision: late payment interest start date)—



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- (a) in paragraph 7 (inheritance tax payable by instalments) for sub-paragraph (7) substitute—
  - “(7) A company falls within this sub-paragraph if—
    - (a) its business is carried on in the United Kingdom and is—
      - (i) wholly that of a market maker, or
      - (ii) that of a discount house, or
    - (b) it is of a description set out in regulations under section 107(5) of FA 1986.”;
  - (b) in paragraph 9 (certain other amounts of inheritance tax), for “date of the testator’s death” substitute “end of the month in which the testator died”.
- (3) The amendments made by this section come into force on such day or days as the Treasury may by regulations made by statutory instrument appoint.
- (4) Regulations under subsection (3) may—
  - (a) appoint different days for different purposes;
  - (b) make transitional or saving provision.

### **PART 3**

#### **BANKING**

##### *Bank levy*

#### **16 Bank levy rates for 2016 to 2021**

Schedule 2 contains provision for a reduction in bank levy rates in 2016 and further reductions each year from 2017 to 2021.

##### *Banking companies*

#### **17 Banking companies: surcharge**

Schedule 3 contains provision for, and in connection with, a surcharge on banking companies.

#### **18 Banking companies: expenses relating to compensation**

- (1) In CTA 2009, after section 133 insert—

##### *“Banking companies*

#### **133A Compensation payments: restriction of deductions**

- (1) In calculating the profits of a trade carried on by a company (“company A”) no deduction is allowed for expenses incurred by the company if and so far as—
  - (a) the expenses are in respect of amounts of relevant compensation (see subsection (3)), and

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- (b) the disclosure condition is met in relation to the expenses (see section 133C).
- (2) Subsection (1) does not apply to expenses which are excluded by section 133D.
- (3) In relation to company A, “relevant compensation” means compensation which is paid or payable—
  - (a) to or for the benefit of a customer of company A in respect of relevant conduct (see subsection (6)) of company A, or
  - (b) to or for the benefit of a customer of a qualifying company in respect of relevant conduct of that qualifying company (but see subsection (4)).
- (4) Compensation paid or payable as mentioned in subsection (3)(b) is not relevant compensation so far as it is paid or payable under arrangements entered into between company A and the qualifying company on arm’s length terms.
- (5) “Qualifying company”, in relation to company A, means a company which is associated with company A (see section 133L) at the time when the expenses in question are recognised for accounting purposes.
- (6) For the purposes of this section conduct of a company is “relevant conduct” if the conduct occurs—
  - (a) on or after 29 April 1988, and
  - (b) at a time when the company is a banking company (see section 133E).
- (7) For the purposes of subsection (1) it does not matter whether the compensation is paid, or to be paid, by company A or another person.
- (8) In this section—
  - “compensation”, “payment” and references to compensation “paid or payable” in respect of relevant conduct of a company, are to be read in accordance with section 133K;
  - “conduct” includes any act or omission;
  - “customer” has the meaning given by section 133J.

### **133B Companies affected by section 133A: amounts treated as received**

- (1) This section applies where a company incurs in an accounting period expenses which would, but for section 133A, be deductible in calculating the profits of a trade carried on by that company.
- (2) An amount equal to 10% of the relevant sum is to be brought into account as a receipt in calculating the profits of the trade.
- (3) The amount is treated as arising at the end of the accounting period.
- (4) In this section “the relevant sum” means the total amount of the expenses which as a result of section 133A are not deductible in calculating the profits of the trade for the accounting period.

### **133C The disclosure condition**

- (1) In relation to expenses incurred by a company (“company A”) in respect of amounts of relevant compensation, the “disclosure condition” is met if—
  - (a) a relevant document indicates that the company—
    - (i) is or has been, or
    - (ii) will become,  
liable to pay compensation in respect of a particular matter and the relevant compensation can reasonably be regarded as relating to that matter, or
  - (b) a relevant document refers to disciplinary action taken or to be taken by a regulator in respect of a particular matter and the relevant compensation can reasonably be regarded as relating to that matter.
- (2) A disclosure in a relevant document is to be disregarded for the purposes of paragraph (a) of subsection (1) if the disclosure is concerned with liability to pay compensation to or for the benefit of one (and only one) customer of the company concerned in respect of a single error in the conduct of the company concerned.
- (3) In subsection (2) “the company concerned” means company A or a company which is associated with company A (see section 133L).
- (4) For the purposes of subsection (1)(a) it does not matter whether the indication is express or implicit (or how it is expressed or conveyed) provided that it is reasonably clear from the relevant document that the company is or has been, or will become, liable to pay compensation in respect of the matter concerned.
- (5) In this section “a relevant document” means—
  - (a) relevant accounts,
  - (b) a relevant statutory report, or
  - (c) a relevant listing disclosure.
- (6) For the purposes of this section the following are “relevant accounts” in relation to expenses incurred by company A—
  - (a) company A’s statutory accounts for a relevant period, and
  - (b) relevant consolidated accounts for a relevant period.
- (7) For the purposes of this section, any of the following is a “relevant statutory report” in relation to company A if the report in question is prepared for a relevant period—
  - (a) any published report prepared by the directors of the company for the purposes of any provision of the legislation under which company A is registered or, as the case may be, established;
  - (b) any published consolidated report prepared for such purposes, if the company is included in the consolidation.
- (8) In this section “relevant listing disclosure” means a disclosure required—
  - (a) by rules under section 73A of FISMA 2000, or
  - (b) by virtue of a requirement imposed by or under a corresponding provision of the law of a territory outside the United Kingdom,

if the disclosure is made in the period of 5 years ending at the end of the period of account in which the expenses are recognised for accounting purposes.

- (9) In this section “relevant period”, in relation to expenses incurred by company A, means—
- (a) the period of account in which the expenses are recognised for accounting purposes, or
  - (b) any period which begins not more than 5 years before, and ends not later than, the end of that period.
- (10) In this section, in relation to a company—
- “relevant compensation” has the meaning given by section 133A(3);
  - “statutory accounts” means accounts prepared for the purposes of any provision of the legislation under which the company is registered or, as the case may be, established;
  - “relevant consolidated accounts” means consolidated accounts prepared for any such purposes, if the company is included in the consolidation.

### **133D Excluded expenses**

- (1) Expenses in respect of relevant compensation are excluded by this section if the compensation is in respect of—
- (a) an administrative error,
  - (b) the failure of a computer or electronic system, or
  - (c) loss or damage which is wholly or mainly attributable to an unconnected third party.
- (2) In subsection (1) “third party” means a person who is neither the company mentioned in section 133A(1) nor (if different) the company in respect of whose conduct the compensation is paid or payable (see section 133A(3)(b)).
- (3) For the purposes of this section a third party (“TP”) is an “unconnected third party” unless—
- (a) TP was, at the time of the relevant actions, connected with the company mentioned in section 133A(1) or (if different) the company in respect of whose conduct the compensation is paid or payable, or
  - (b) in taking one or more of the relevant actions, TP was acting under arrangements with the company mentioned in paragraph (a) or (as the case may be) either of the companies mentioned in paragraph (a).
- (4) In this section “the relevant actions” means the actions as a result of which the loss or damage is wholly or mainly attributable to TP (and references to actions or the taking of actions include failures to act).
- (5) Section 1122 of CTA 2010 (meaning of “connected persons”) applies for the purposes of this section, but subject to the following modification.
- (6) Section 1122 has effect as if after subsection (8) there were inserted—
- “(9) A person (“A”) is connected with any person who is an employee of A or by whom A is employed.

- (10) For the purposes of this section any director or other officer of a company is to be treated as employed by that company.”

### **133E Meaning of “banking company”**

- (1) For the purposes of section 133A, a company is a “banking company”—
- (a) at a time when it meets conditions A to D,
  - (b) at a time when it meets condition A and is a member of a partnership which meets conditions B to D, or
  - (c) if it is a building society.
- In subsections (2) to (6), “the relevant entity” means the company or partnership.
- (2) Condition A is that the company is not an excluded company (see section 133F).
- (3) Condition B—
- (a) in relation to any time on or after 1 December 2001, is that the relevant entity is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act);
  - (b) in relation to any time before that date, is that the relevant entity—
    - (i) was at that time an authorised person under Chapter 3 of Part 1 of the Financial Services Act 1986 (persons authorised to carry on investment business),
    - (ii) was authorised under the Banking Act 1987, or
    - (iii) was entitled by virtue of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) to accept deposits (within the meaning of the Banking Act 1987) in the United Kingdom.
- (4) Condition C is that—
- (a) the relevant entity’s activities include the relevant regulated activity described in the provision mentioned in section 133G(1)(a), or
  - (b) the relevant entity is an investment bank (see section 133H) whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 133G(1)(b) to (f).
- (5) Condition D is that the relevant entity carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade.
- (6) Where the relevant entity carries on activities outside the United Kingdom, Condition B is met—
- (a) in relation to any time on or after 1 December 2001, if the relevant entity would be required to be an authorised person for the purposes of FISMA 2000 (see section 31 of that Act) in order to carry on any of those activities in the United Kingdom at that time;
  - (b) in relation to any time before that date, if in order to carry on those activities in the United Kingdom at that time the relevant entity—

- (i) would have been required to be an authorised person under Chapter 3 of Part 1 of the Financial Services Act 1986 (persons authorised to carry on investment business), or
  - (ii) would have been required either to be authorised under the Banking Act 1987 or to be entitled by virtue of the Banking Co-ordination (Second Council Directive) Regulations 1992 (S.I. 1992/3218) to accept deposits (within the meaning of the Banking Act 1987) in the United Kingdom.
- (7) In this section “partnership” includes—
- (a) a limited liability partnership, and
  - (b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership,
- and “member”, in relation to a partnership, is to be read accordingly.
- (8) For the meaning of “relevant regulated activity”, see section 133G.

### **133F “Excluded company”**

- (1) This section gives the meaning of “excluded company” for the purposes of section 133E.
- (2) A company is an “excluded company” at any time (in an accounting period) when the company is—
- (a) an insurance company or an insurance special purpose vehicle;
  - (b) a company which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or an insurance special purpose vehicle which is a member of the group;
  - (c) a company which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme;
  - (d) an investment trust;
  - (e) a company which does not carry on any relevant regulated activities other than asset management activities;
  - (f) an exempt commodities firm;
  - (g) a company which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives;
  - (h) a company which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences—
    - (i) as principal with persons all or all but an insignificant proportion of whom are retail clients, or
    - (ii) with any other person to enable the company or that other person to deal in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients;
  - (i) a friendly society;
  - (j) a society registered as a credit union under the Co-operative and Community Benefit Societies Act 2014 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (N.I. 12));

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- (k) a building society.
- (3) In this section “asset management activities” means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following—
- (a) acting as the operator of a collective investment scheme (see subsection (5)),
  - (b) managing investments on a discretionary basis for clients none of which is a linked entity (see subsection (6)), and
  - (c) acting as an authorised corporate director.
- (4) In subsection (2)(f) “exempt commodities firm” means—
- (a) in relation to a time on or after 1 January 2014, an exempt IFPRU commodities firm, as defined by the FCA Handbook at that time,
  - (b) in relation to a time on or after 1 April 2013 but before 1 January 2014, an exempt BIPRU commodities firm, as defined by the PRA Handbook at that time,
  - (c) in relation to a time on or after 1 January 2007 but before 1 April 2013, an exempt BIPRU commodities firm, as defined by the Handbook of the Financial Services Authority at that time, and
  - (d) in relation to a time before 1 January 2007, an exempt BIPRU commodities firm as defined by the Handbook of the Financial Services Authority as in force on 1 January 2007.
- (5) In subsection (3)(a) “operator of a collective investment scheme”—
- (a) in relation to times on and after 25 February 2001, has the same meaning as in Part 17 of FISMA 2000 (see sections 235 and 237 of that Act);
  - (b) in relation to times before that date, has the same meaning as in the Financial Services Act 1986.
- (6) In subsection (3)(b) “linked entity”, in relation to a company (“C”), means—
- (a) a member of the same group as C;
  - (b) a company in which a company which is a member of the same group as C has a major interest, or
  - (c) a partnership the members of which include an entity—
    - (i) which is a member of the same group as C, and
    - (ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the accounting period mentioned in the opening words of subsection (2) is at least a 40% share (see Part 17 for provisions about shares of partnership profits and losses).
- (7) In this section—
- “authorised corporate director”—
    - (a) in relation to any time on or after 1 April 2013, has the meaning given by the FCA Handbook at that time;
    - (b) in relation to any time before 1 April 2013, has the meaning given by the FCA Handbook as in force on 1 April 2013;
  - “contract for differences” has the meaning given by section 582;

“the FCA Handbook” means the Handbook made by the Financial Conduct Authority under FISMA 2000;

“friendly society” means a registered friendly society or an incorporated friendly society;

“group” has the same meaning as in Part 7A of CTA 2010 (see section 269BD of that Act);

“incorporated friendly society” means a society incorporated under the Friendly Societies Act 1992;

“insurance company” has the meaning given by section 133I;

“insurance special purpose vehicle” has the meaning given by section 139 of FA 2012;

“major interest” has the same meaning as in Part 5 (see section 473);

“partnership” has the same meaning as in section 133E;

“the PRA Handbook”, means the Handbook made by the Prudential Regulation Authority under FISMA 2000;

“registered friendly society” has the same meaning as in the Friendly Societies Act 1992 (and includes any society that as a result of section 96(2) of the Friendly Societies Act 1992 is treated as a registered friendly society);

“relevant regulated activity” has the meaning given by section 133G;

“retail client”—

- (a) in relation to any time on or after 1 April 2013, has the meaning given by the FCA Handbook at that time;
- (b) in relation to any time before 1 April 2013, has the meaning given by the FCA Handbook as in force on 1 April 2013.

### **133G Meaning of “relevant regulated activity”**

- (1) In sections 133E and 133F “relevant regulated activity” means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#))—
  - (a) article 5 (accepting deposits);
  - (b) article 14 (dealing in investments as principal);
  - (c) article 21 (dealing in investments as agent);
  - (d) article 25 (arranging deals in investments);
  - (e) article 40 (safeguarding and administering investments);
  - (f) article 61 (regulated mortgage contracts).
- (2) In determining whether an activity carried on at any time before 1 December 2001 was at that time a relevant regulated activity, it is to be assumed that FISMA 2000 and the order mentioned in subsection (1) were in force in the form in which they had effect on 1 December 2001.



### **133H Investment bank**

- (1) This section gives the meaning of “investment bank” for the purposes of section 133E; and in this section “the relevant entity” has the same meaning as in subsections (2) to (6) of that section.
- (2) At any time on or after 1 January 2014, the relevant entity is an investment bank if—
  - (a) it is both an IFPRU 730k firm and a full scope IFPRU investment firm, or
  - (b) it is designated by the Prudential Regulation Authority under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) (dealing in investments as principal: designation by PRA).
- (3) At any time on or after 1 January 2007 but before 1 January 2014, the relevant entity was an investment bank if it was both a BIPRU 730k firm and a full scope BIPRU investment firm.
- (4) At any time before 1 January 2007, the relevant entity was an investment bank if it would have been both a BIPRU 730k firm and a full scope BIPRU investment firm if the Handbook of the Financial Services Authority in force on 1 January 2007 had been in force at that earlier time.
- (5) In subsections (2) to (4)—

“IFPRU 730k firm” and “full scope IFPRU investment firm” have the meaning given by the FCA Handbook at the time in question;

“BIPRU 730k firm” and “full scope BIPRU investment firm”—

  - (a) in relation to any time on or after 1 April 2013 have the meaning given by the PRA Handbook at that time;
  - (b) in relation to any time on or after 1 January 2007 but before 1 April 2013, have the meaning given by the Handbook of the Financial Services Authority at that time;
  - (c) in relation to any time before 1 January 2007, have the meaning given by the Handbook of the Financial Services Authority as in force on 1 January 2007.
- (6) If the relevant entity would at any time be an investment bank under subsection (2)(a), (3) or (4) by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom, the relevant entity is to be treated for the purposes of section 133E as being an investment bank.
- (7) In this section—

“the FCA Handbook” means the Handbook made by the Financial Conduct Authority under FISMA 2000;

“the PRA Handbook” means the Handbook made by the Prudential Regulation Authority under FISMA 2000.

**133I Meaning of “insurance company”**

- (1) For the purposes of section 133F a person who carries on the activity of effecting or carrying out contracts of insurance is an “insurance company” if—
- (a) the person has permission under Part 4A of FISMA 2000 to carry on that activity,
  - (b) the person is of the kind mentioned in paragraph 5(d) or (da) of Schedule 3 to FISMA 2000 (EEA passport rights) and carries on that activity in the United Kingdom through a permanent establishment there, or
  - (c) the person qualifies for authorisation under Schedule 4 to FISMA 2000 (Treaty rights) and carries on that activity in the United Kingdom through a permanent establishment there.
- (2) In relation to times in the period beginning with 1 December 2001 and ending with 31 March 2013, the reference in subsection (1)(a) to Part 4A of FISMA 2000 is to be read as a reference to Part 4 of that Act
- (3) In relation to times before 1 December 2001, this section has effect as if the following were substituted for subsection (1)—
- “(1) For the purposes of section 133F a person who carries on the activity of effecting or carrying out contracts of insurance is an “insurance company” if the person is—
- (a) authorised under section 3 or 4 of the Insurance Companies Act 1982, or
  - (b) an EC company within the meaning of the Insurance Companies Act 1982 which, by virtue of paragraph 1 or 8 of Schedule 2F to that Act, was able to carry on direct insurance business through a branch in the United Kingdom or provide insurance in the United Kingdom.”

**133J Meaning of “customer”**

- (1) For the purposes of sections 133A and 133C, a person (“P”) is a “customer” in relation to a company (“company A”) if—
- (a) P uses, has used or may have contemplated using a financial service provided by company A, or
  - (b) has relevant rights or interests in relation to a financial service provided by company A.
- (2) In subsection (1) “financial service” means a service provided—
- (a) in carrying on regulated activities,
  - (b) in communicating, or approving the communication by others of, invitations or inducements to engage in investment activity, or
  - (c) in providing relevant ancillary services (if company A is an investment firm or credit institution).
- (3) P has a “relevant right or interest” in relation to any service if P has a right or interest—

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- (a) which is derived from, or is otherwise attributable to, the use of the service by another person, or
  - (b) which may be adversely affected by the use of the service by persons acting on P's behalf or in a fiduciary capacity in relation to P.
- (4) If company A is providing a service as a trustee, the persons who are, have been, or may have been, beneficiaries of the trust are to be treated as persons who use, have used, or may have contemplated using, the service.
- (5) A person who deals with company A in the course of company A providing a service is to be treated as using the service.
- (6) In this section—
- “credit institution” has the meaning given by section 1H(8) of FISMA 2000;
  - “engage in investment activity” has the meaning given in section 21 of FISMA 2000;
  - “investment firm” has the same meaning as in FISMA 2000 (see section 424A of that Act);
  - “regulated activities” has the same meaning as in FISMA 2000 (see section 22 of that Act);
  - “relevant ancillary services” means has the meaning given by section 1H(8) of FISMA 2000.

### **133K “Compensation” and related expressions**

- (1) In sections 133A to 133D references to compensation which is paid or payable “in respect of” relevant conduct include compensation which is paid (or to be paid)—
- (a) in connection with a claim by the customer for compensation in respect of the conduct, or
  - (b) in circumstances where there is reason to suspect that company A may (or might in the absence of the payment) be or become liable to pay compensation in respect of relevant conduct—
    - (i) to the customer, or
    - (ii) in one or more of a class of cases which includes the customer's case.
- (2) In sections 133A to 133D and this section “compensation” includes any form of redress, whether monetary or non-monetary, and accordingly includes interest.

References in those sections to “payment” are to be interpreted accordingly.

- (3) In subsection (1)—
- “claim” includes any claim or request, however made;
  - “customer” has the meaning given by section 133J;
  - “relevant conduct” is to be interpreted in accordance with section 133A(6).

### **133L Associated companies**

- (1) For the purposes of sections 133A and 133C a company (“company B”) is associated with another company (“company A”) at a time (“the relevant time”) if any of the following 5 conditions is met.
- (2) The first condition is that the financial results of company A and company B, for a period that includes the relevant time, meet the consolidation condition.
- (3) The second condition is that there is a connection between company A and company B for the accounting period of company A in which the relevant time falls.
- (4) The third condition is that, at the relevant time, company A has a major interest in company B or company B has a major interest in company A.
- (5) The fourth condition is that—
  - (a) the financial results of company A and a third company, for a period that includes the relevant time, meet the consolidation condition (see subsection (7)), and
  - (b) at the relevant time the third company has a major interest in company B.
- (6) The fifth condition is that—
  - (a) there is a connection (see subsection (9)) between company A and a third company for the accounting period of company A in which the relevant time falls, and
  - (b) at the relevant time the third company has a major interest in company B.
- (7) In this section, the financial results of any two companies for any period meet the “consolidation condition” if—
  - (a) they are required to be comprised in group accounts,
  - (b) they would be required to be comprised in group accounts but for the application of an exemption, or
  - (c) they are in fact comprised in such accounts.
- (8) In subsection (7), “group accounts” means accounts prepared under—
  - (a) section 399 of the Companies Act 2006, or
  - (b) any corresponding provision of the law of a territory outside the United Kingdom.
- (9) Sections 466 to 471 (companies connected for accounting period) apply for the purposes of this section.
- (10) In this section “major interest” has the same meaning as in Part 5 (see section 473).

### **133M Application of sections 133A and 133B in relation to corporate partner**

- (1) If a firm carries on a trade and any partner in the firm (“the corporate partner”) is within the charge to corporation tax, this section applies in determining the

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profits of the trade, in relation to the corporate partner, in accordance with section 1259(3) or (4).

- (2) No deduction is allowed for expenses incurred by the firm if and so far as section 133A would prevent the expenses from being deductible if the firm were, and at all relevant times had been, a company.
- (3) In its application for the purposes of subsection (2), section 133A is to be read subject to subsections (4) to (6).
- (4) Section 133A(3)(b) is to be disregarded.
- (5) Conduct of the firm is “relevant conduct” if the conduct occurs—
  - (a) on or after 29 April 1988, and
  - (b) at a time when—
    - (i) the corporate partner is for the purposes of section 133A a banking company, and
    - (ii) the firm does not fall within any of paragraphs (a) to (h) of section 133F(2) (reading references in those paragraphs to companies as including references to firms).
- (6) The disclosure condition in section 133C may be met by a relevant document relating to the liability of the corporate partner (as well as by a relevant document relating to the liability of the firm).
- (7) Where in any accounting period of the firm (as defined by section 1261) the firm incurs expenses which but for section 133A (as read with subsections (2) to (6)) would be deductible in calculating the profits of the trade, the profits of the firm’s trade are to be determined as if the references in section 133B to a company were a reference to the firm.

### **133N Powers to amend**

- (1) The Treasury may by regulations make such amendments of sections 133A to 133L as they consider appropriate in consequence of—
  - (a) any change made to, or replacement of, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#)) or the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 ([S.I. 2013/556](#)) (or any replacement);
  - (b) any change made to, or replacement of, the FCA Handbook or the PRA Handbook (or any replacement);
  - (c) any regulatory requirement, or change to any regulatory requirement, imposed by EU legislation, or by or under any Act (whenever adopted, enacted or made).
- (2) The Treasury may by regulations—
  - (a) amend sections 133A(1) and 133C for the purpose of varying the class of expenses to which section 133A(1) applies;
  - (b) amend section 133D for the purpose of adding cases to those for the time being listed in subsection (1) of that section;
  - (c) amend section 133D for any other purpose;
  - (d) amend any of sections 133E to 133I;
  - (e) amend section 133M.

- (3) Regulations under this section may include transitional provision.
- (4) A statutory instrument containing only regulations under subsection (1) or (2)(b) is subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Any other statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (6) In this section—
  - “the FCA Handbook” means the Handbook made by the Financial Conduct Authority under FISMA 2000 (as that Handbook has effect from time to time);
  - “the PRA Handbook” means the Handbook made by the Prudential Regulation Authority under FISMA 2000 (as that Handbook has effect from time to time).”
- (2) The amendment made by this section has effect in relation to accounting periods beginning on or after the commencement date.
- (3) “The commencement date” means—
  - (a) except for the purposes of section 133M of CTA 2009, 8 July 2015;
  - (b) for the purposes of that section, 15 July 2015.
- (4) Subsection (5) applies where a company has an accounting period beginning before the commencement date and ending on or after that date (“the straddling period”).
- (5) For the purposes of sections 133A to 133N of CTA 2009—
  - (a) so much of the straddling accounting period as falls before the commencement date and so much of that period as falls on or after that date, are treated as separate accounting periods, and
  - (b) any amounts brought into account for the purposes of calculating for corporation tax purposes the profits of a trade for the straddling accounting period are apportioned to the two separate accounting periods on such basis as is just and reasonable.

## **19 Banks established under Savings Bank (Scotland) Act 1819: loss allowance**

- (1) In Part 7A of CTA 2010 (banking companies), in section 269CN (definitions), in the definition of “building society”, at the end insert “except that it also includes a bank established under the Savings Bank (Scotland) Act 1819”.
- (2) The amendment made by this section is treated as having come into force on 1 April 2015.

## **20 Definitions relating to banks**

- (1) Schedule 19 to FA 2011 (the bank levy) is amended in accordance with subsections (2) to (7).
- (2) In paragraph 12—
  - (a) in sub-paragraph (8)(a)(iv)—

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- (i) after “relevant” insert “regulated”;
    - (ii) for “a BIPRU 730k firm and a full scope BIPRU investment firm,” substitute “an IFPRU 730k firm and a full scope IFPRU investment firm.”;
  - (b) in sub-paragraph (8)(b)(iv)—
    - (i) after “relevant” insert “regulated”;
    - (ii) for “a BIPRU 730k firm and a full scope BIPRU investment firm” substitute “an IFPRU 730k firm and a full scope IFPRU investment firm”.
- (3) In paragraph 70—
  - (a) in sub-paragraph (1), at the appropriate places insert—
    - “the FCA Handbook” means the Handbook made by the Financial Conduct Authority under FISMA 2000 (as that Handbook has effect from time to time);”;
    - “investment bank” means an entity which—
      - (a) is both an IFPRU 730k firm and a full scope IFPRU investment firm, or
      - (b) is designated by the Prudential Regulation Authority under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 (S.I. 2013/556) (dealing in investments as principal: designation by PRA);”;
  - (b) in sub-paragraph (2), in the list of terms, omit the entries relating to “BIPRU 730k firm”, “exempt BIPRU commodities firm” and “full scope BIPRU investment firm”;
  - (c) after sub-paragraph (2) insert—
    - “(2A) In this Schedule the following terms have the meaning given in the FCA Handbook—
      - “exempt IFPRU commodities firm”;
      - “full scope IFPRU investment firm”;
      - “IFPRU 730k firm”.”;
  - (d) in sub-paragraph (3), for “a BIPRU 730k firm and a full scope BIPRU investment firm” substitute “an IFPRU 730k firm and a full scope IFPRU investment firm”.
- (4) In paragraph 72(3)(a), for “both a BIPRU 730k firm and a full scope BIPRU investment firm,” substitute “an investment bank.”.
- (5) In paragraph 73(1), for paragraph (f) substitute—
  - “(f) an exempt IFPRU commodities firm.”.
- (6) In paragraph 78(1)(c)(ii), for “both a BIPRU 730k firm and a full scope BIPRU investment firm,” substitute “an investment bank.”.
- (7) In paragraph 80(1)(c)(ii) for “both a BIPRU 730k firm and a full scope BIPRU investment firm,” substitute “an investment bank.”.
- (8) The amendments made by subsections (1) to (7) are treated as having come into force on 1 January 2014.
- (9) Part 7A of CTA 2010 (banking companies) has effect, and is to be deemed always to have had effect, with the amendments set out in subsections (10) to (12).

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- (10) In section 269B (meaning of “banking company”)—
- (a) for subsection (5) substitute—
- “(5) Condition D is that, at any time in the accounting period—
- (a) the relevant entity’s activities include the relevant regulated activity described in the provision mentioned in section 269BB(a), or
- (b) the relevant entity is an investment bank (see subsection (6A)) whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in section 269BB(b) to (f).”;
- (b) after subsection (6) insert—
- “(6A) The relevant entity is an “investment bank” if—
- (a) it is both an IFPRU 730k firm and a full scope IFPRU investment firm, or
- (b) it is designated by the Prudential Regulation Authority under article 3 of the Financial Services and Markets Act 2000 (PRA-regulated Activities) Order 2013 ([S.I. 2013/556](#)) (dealing in investments as principal: designation by PRA).”
- (11) In section 269BA (excluded entities), in subsection (1)(f), omit “or exempt BIPRU commodities firm”.
- (12) In section 269BC (banking companies: supplementary definitions)—
- (a) in subsection (8), in the list of terms, omit the entries relating to “BIPRU 730K firm”, “exempt BIPRU commodities firm” and “full scope BIPRU investment firm”;
- (b) omit subsection (9).

## PART 4

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

#### *Income tax*

## 21 Pensions: special lump sum death benefits charge

- (1) Section 206 of FA 2004 (special lump sum death benefits charge) is amended in accordance with subsections (2) to (5).
- (2) In each of subsections (1), (1A), (1B)(a) and (1C)(a) (which specify payments attracting the charge) after “paid” insert “, to a non-qualifying person,”.
- (3) In subsection (1B)(b) (payments attracting charge if paid more than 2 years after death of member under 75), before the “or” at the end of sub-paragraph (ii) insert—
- “(ia) a defined benefits lump sum death benefit.”
- (4) In subsection (7) (sums taxed under section 206 not income for income tax purposes), at the end insert “(but see subsection (8)).”
- (5) After subsection (7) insert—



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“(8) Where—

- (a) a lump sum death benefit in respect of which tax is charged under this section is one paid to a non-qualifying person in the person’s capacity as a trustee, and
- (b) a payment of any part of the lump sum is made out of a settlement to a beneficiary who is an individual,

the amount received by the beneficiary, together with so much of the tax charged under this section on the lump sum as is attributable to the amount received by the beneficiary, is income of the beneficiary for income tax purposes but the beneficiary may claim to deduct that much of that tax from the income tax charged on the beneficiary’s total income for the tax year in which the payment is made to the beneficiary.

(9) For the purposes of this section, a person is a “non-qualifying person” in relation to payment of a lump sum if—

- (a) the person is not an individual, or
- (b) the person is an individual and the payment is made to the person in the person’s capacity as—
  - (i) a trustee or personal representative,
  - (ii) a director of a company,
  - (iii) a partner in a firm, or
  - (iv) a member of a limited liability partnership,

except that a person is not a “non-qualifying person” in relation to payment of a lump sum if the payment is made to the person in the person’s capacity as a bare trustee.

(10) In subsection (9)—

“bare trustee” means a person acting as trustee for—

- (a) an individual absolutely entitled as against the trustee,
- (b) two or more individuals who are so entitled,
- (c) an individual who would be so entitled but for being a minor or otherwise lacking legal capacity, or
- (d) two or more individuals who would be so entitled but for all or any of them being a minor or otherwise lacking legal capacity,

“director” is read in accordance with section 452 of CTA 2010, and references to a firm are to be read in the same way as references to a firm in Part 9 of ITTOIA 2005 (which contains special provision about partnerships).”

(6) In section 251(4) of FA 2004 (powers to impose information requirements), after paragraph (b) insert—

“(ba) requiring, in a case where a payment (“the onwards payment”) is made directly or indirectly out of a sum on whose payment tax has been charged under section 206, the person making the onwards payment to provide information of a prescribed description to the person to whom the onwards payment is made,”.

(7) In paragraph 16 of Schedule 32 to FA 2004 (benefit crystallisation event 7: defined benefits lump sum death benefit is a “relevant lump sum death benefit”)—

- (a) in the first sentence, in paragraph (a), after “benefit” insert “, other than one—

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- (i) paid by a registered pension scheme in respect of a member of the scheme who had not reached the age of 75 at the date of the member’s death, but
  - (ii) not paid before the end of the relevant two-year period”, and
  - (b) in the second sentence, for “sub-paragraph” substitute “paragraphs (a)(i) and”.
- (8) In Part 2 of Schedule 29 to FA 2004 (interpretation of lump sum death benefit rule), in paragraph 13 (defined benefits lump sum death benefit)—
- (a) in sub-paragraph (1) omit the second sentence (exclusion of sums paid more than 2 years after death of member under 75), and
  - (b) omit sub-paragraph (2) (interpretation of that sentence).
- (9) In consequence of subsection (8), in paragraph 33 of Schedule 16 to FA 2011—
- (a) in sub-paragraph (3) omit paragraph (c), and
  - (b) omit sub-paragraph (4).
- (10) The amendments made by this section have effect in relation to lump sums paid on or after 6 April 2016.

## **22 Pensions: some lump sum death benefits taxed as pension income**

- (1) Part 9 of ITEPA 2003 (pension income) is amended in accordance with subsections (2) to (7).
- (2) In section 636A (lump sums under registered pension schemes) for subsection (4) (certain death benefit lump sums) substitute—
- “(4) If a lump sum under a registered pension scheme—
- (a) is listed in section 636AA, and
  - (b) is paid to a non-qualifying person (see subsection (8)),
- the sum is subject to income tax under section 206 of FA 2004 (charge to tax on scheme administrator in respect of certain lump sum death benefits) and not otherwise (but see section 206(8) of FA 2004).
- (4ZA) If a lump sum under a registered pension scheme—
- (a) is listed in section 636AA, and
  - (b) is paid to a qualifying person (see subsection (8)),
- section 579A applies in relation to the sum as it applies to any pension under a registered pension scheme.”
- (3) In section 636A(1) (no liability to income tax on certain lump sum death benefits)—
- (a) after paragraph (c) insert “or”, and
  - (b) omit paragraph (d) (certain defined benefits lump sum death benefits) and the “or” preceding it.
- (4) In section 636A, after subsection (7) insert—
- “(8) For the purposes of this section—
- (a) a person is a “non-qualifying person” in relation to payment of a lump sum if, for the purposes of section 206 of FA 2004, the person is a non-qualifying person in relation to payment of the sum, and

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- (b) a person is a “qualifying person” in relation to payment of a lump sum except where the person is a non-qualifying person in relation to payment of the sum.”

(5) After section 636A insert—

**“636AA Taxable lump sum death benefits**

- (1) The following are the lump sums mentioned in section 636A(4) and (4ZA).
- (2) An annuity protection lump sum death benefit, or a pension protection lump sum death benefit, paid in respect of a member of the scheme who had reached the age of 75 at the date of the member’s death.
- (3) A drawdown pension fund lump sum death benefit under paragraph 17(1) of Schedule 29 to FA 2004, a flexi-access drawdown fund lump sum death benefit under paragraph 17A(1) of that Schedule, a defined benefits lump sum death benefit or an uncrystallised funds lump sum death benefit—
  - (a) paid in respect of a member of the scheme who had reached the age of 75 at the date of the member’s death, or
  - (b) paid in respect of a member of the scheme who had not reached the age of 75 at the date of the member’s death, but not paid before the end of the relevant 2-year period in respect of the member’s death.
- (4) A drawdown pension fund lump sum death benefit under paragraph 17(2) of Schedule 29 to FA 2004 or a flexi-access drawdown fund lump sum death benefit under paragraph 17A(2) of that Schedule—
  - (a) paid on the death of a dependant of a deceased member of the scheme where the dependant had reached the age of 75 at the date of the dependant’s death, or
  - (b) paid on the death of a dependant of a deceased member of the scheme where the dependant had not reached the age of 75 at the date of the dependant’s death, but not paid before the end of the relevant 2-year period in respect of the dependant’s death.
- (5) A flexi-access drawdown fund lump sum death benefit under paragraph 17A(3) or (4) of Schedule 29 to FA 2004—
  - (a) paid on the death of a nominee or successor (as the case may be) of a deceased member of the scheme where the nominee or successor (“the beneficiary”) had reached the age of 75 at the date of the beneficiary’s death, or
  - (b) paid on the death of a nominee or successor (as the case may be) of a deceased member of the scheme where the nominee or successor (“the beneficiary”) had not reached the age of 75 at the date of the beneficiary’s death, but not paid before the end of the relevant 2-year period in respect of the beneficiary’s death.
- (6) In this section—

“dependant”, “nominee” and “successor” have the meaning given, respectively, by paragraphs 15, 27A and 27F of Schedule 28 to FA 2004, and

“relevant 2-year period”, in relation to a death, means the period of 2 years beginning with the earlier of—

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- (a) the day on which the scheme administrator of the scheme mentioned in section 636A(4) or (4ZA) (as the case may be) first knew of the death, and
  - (b) the day on which that scheme administrator could first reasonably have been expected to have known of it.
- (7) Section 636A(4A) and (7) (interpretation) apply also for the purposes of this section.”
- (6) In section 579CA as substituted by paragraph 117 of Schedule 45 to FA 2013 (pensions under registered pension schemes: temporary non-residents), in subsection (4) (which lists relevant withdrawals) as substituted by the Taxation of Pensions Act 2014—
- (a) omit the “or” at the end of paragraph (k), and
  - (b) after paragraph (l) insert “, or
    - (m) any payment to the person of a lump sum to which section 579A applies by virtue of section 636A(4ZA).”
- (7) In the version of section 579CA which has effect if the year of departure is the tax year 2012-13 or an earlier tax year, in subsection (3A) (which lists relevant withdrawals)—
- (a) omit the “or” at the end of paragraph (k), and
  - (b) after paragraph (l) insert “, or
    - (m) any payment to the person of a lump sum to which section 579A applies by virtue of section 636A(4ZA).”
- (8) In section 683 of ITEPA 2003 (meaning of “PAYE income”)—
- (a) in subsection (3) (meaning, subject to subsections (3A) and (3B), of “PAYE pension income”) for “and (3B)” substitute “to (3C)”, and
  - (b) after subsection (3B) insert—
    - “*(3C) PAYE pension income*” for a tax year does not include any taxable pension income that is treated as accruing in that tax year by virtue of section 636A(1A) to (1C) or (4ZA) so far as having effect as applied by paragraph 1(3)(da) or (db) of Schedule 34 to FA 2004.”
- (9) In section 168(2) of FA 2004 (meaning of “lump sum death benefit”), at the end insert “, or a lump sum payable in respect of the member on the subsequent death of a dependant, nominee or successor of the member.”
- (10) In Schedule 34 to FA 2004 (application of certain charges to non-UK pension schemes) —
- (a) in paragraph 1(3) (meaning of “member payment charges”), before the “and” at the end of paragraph (da) insert—
    - “(db) the charge under section 636A(4ZA) of ITEPA 2003 (certain payments of lump sum death benefits),” and
  - (b) in paragraph 1(4)(b) (provisions of ITEPA 2003 which are “member payment provisions”) after “636A(1A) to (1C)” insert “and (4ZA) and section 636AA”.
- (11) In consequence of subsections (2) and (3)—
- (a) in Schedule 16 to FA 2011, omit paragraph 42(2)(b) and (4), and
  - (b) in the Taxation of Pensions Act 2014—
    - (i) in Schedule 1 omit paragraph 31(a), and
    - (ii) in Schedule 2 omit paragraph 19(3)(a)(i).

(12) The amendments made by subsections (2) to (8), (10) and (11) have effect in relation to lump sums paid on or after 6 April 2016.

(13) The amendment made by subsection (9) is to be treated as having come into force on 15 July 2015.

### **23 Pensions: annual allowance**

Schedule 4 contains provision in connection with the annual allowance for inputs into pension schemes.

### **24 Relief for finance costs related to residential property businesses**

(1) ITTOIA 2005 is amended in accordance with subsections (2) to (6).

(2) After section 272 insert—

#### **“272A Restricting deductions for finance costs related to residential property**

(1) Where a deduction is allowed for costs of a dwelling-related loan in calculating the profits of a property business for the tax year 2017-18, the amount allowed to be deducted in respect of those costs in calculating those profits for income tax purposes is 75% of what would be allowed apart from this section.

(2) Where a deduction is allowed for costs of a dwelling-related loan in calculating the profits of a property business for the tax year 2018-19, the amount allowed to be deducted in respect of those costs in calculating those profits for income tax purposes is 50% of what would be allowed apart from this section.

(3) Where a deduction is allowed for costs of a dwelling-related loan in calculating the profits of a property business for the tax year 2019-20, the amount allowed to be deducted in respect of those costs in calculating those profits for income tax purposes is 25% of what would be allowed apart from this section.

(4) In calculating the profits of a property business for income tax purposes for the tax year 2020-21 or any subsequent tax year, no deduction is allowed for costs of a dwelling-related loan.

(5) Subsections (1) to (4) do not apply in relation to calculating the profits of a property business for the purposes of charging a company to income tax on so much of those profits as accrue to it otherwise than in a fiduciary or representative capacity.

(6) For the meaning of “costs of a dwelling-related loan” see section 272B.

#### **272B Meaning of “costs of a dwelling-related loan”**

(1) Subsections (2) to (5) apply for the purposes of section 272A.

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- (2) “Dwelling-related loan”, in relation to a property business, means so much of an amount borrowed for purposes of the business as is referable (on a just and reasonable apportionment) to so much of the business as is carried on for the purpose of generating income from—
  - (a) land consisting of a dwelling-house or part of a dwelling-house, or
  - (b) an estate, interest or right in or over land within paragraph (a),
 but see subsections (3) and (4).
- (3) Anything that in the course of a property business is done for creating (by construction or adaptation) a dwelling-house, or part of a dwelling-house, from which income is to be generated is, for the purposes of subsection (2), to be treated as done for the purpose mentioned in that subsection.
- (4) An amount borrowed for purposes of a property business is not a dwelling-related loan so far as the amount is referable (on a just and reasonable apportionment) to so much of the property business as consists of the commercial letting of furnished holiday accommodation.
- (5) “Costs”, in relation to a dwelling-related loan, means—
  - (a) interest on the loan,
  - (b) an amount in connection with the loan that, for the person receiving or entitled to the amount, is a return in relation to the loan which is economically equivalent to interest, or
  - (c) incidental costs of obtaining finance by means of the loan.
- (6) Section 58(2) to (4) (meaning of “incidental costs of obtaining finance”) apply for the purposes of subsection (5)(c).
- (7) A reference in this section to a “dwelling-house” includes any land occupied or enjoyed with it as its garden or grounds.”
- (3) In section 274(1)(b) (rules which override rules allowing deductions) after “as applied by section 272” insert “, and to section 272A (finance costs)”.
- (4) In section 274(3) (meaning of “relevant prohibitive rule”) after “as applied by section 272” insert “, and apart also from section 272A”.
- (5) After section 274 insert—

*“Tax reduction for non-deductible costs of a dwelling-related loan*

#### **274A Tax reduction for individuals**

- (1) Subsections (2) to (5) apply if—
  - (a) an amount (“A”) would be deductible in calculating the profits for income tax purposes of a property business for a tax year but for section 272A, and
  - (b) a particular individual is liable to income tax on N% of those profits, where N is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100.

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(2) The individual is entitled to relief under this section for the tax year in respect of an amount (the “relievable amount”) equal to N% of A.

(3) Subject to subsection (4), the amount of the relief is given by—

$$BR \times L$$

where BR is the basic rate of income tax for the year, and L is the lower of—

(a) the total of—

(i) the relievable amount, and

(ii) any difference available in relation to the individual and the property business for carry-forward to the year under subsection (5), and

(b) the profits for income tax purposes of the property business for the year after any deduction under section 118 of ITA 2007 (“the adjusted profits”) or, if less, the share of the adjusted profits on which the individual is liable to income tax.

(4) If the individual’s gross finance-costs relief for the year (“GFCR”) is greater than the individual’s adjusted total income for the year (“ATI”), the amount of the relief under this section for the year in respect of the relievable amount is—

$$\frac{ATI}{GFCR} \times (BR \times L)$$

where BR and L have the same meaning as in subsection (3).

(5) Where the amount (“AY”) of the relief under this section for the year in respect of the relievable amount is less than—

$$BR \times T$$

where BR is basic rate of income tax for the year and T is the total found at subsection (3)(a), the difference between—

(a) T, and

(b) AY divided by BR (with BR expressed as a fraction for this purpose), is available in relation to the individual and the property business for carry-forward to the following tax year.

(6) For the purposes of this section—

(a) an individual’s adjusted total income for a tax year is the individual’s total income for that year less the total of—

(i) so much of that total income as is savings income,

(ii) so much of that total income as is dividend income, and

(iii) any allowances to which the individual is entitled for that year under Chapter 2 of Part 3 of ITA 2007 (individuals: personal and blind person’s allowance), and

(b) an individual’s gross finance-costs relief for a tax year is the total relief to which the individual is entitled for the year under this section before any adjustment under subsection (4).

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*Status: This is the original version (as it was originally enacted).*

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### **274B Tax reduction for accumulated or discretionary trust income**

- (1) Subsections (2) to (4) apply if—
- (a) an amount (“A”) would be deductible in calculating the profits for income tax purposes of a property business for a tax year but for section 272A,
  - (b) the trustees of a particular settlement are liable for income tax on N % of those profits, where N is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100, and
  - (c) in relation to those trustees, that N% of those profits is accumulated or discretionary income.

(2) The trustees of the settlement are entitled to relief under this section for the tax year in respect of an amount (“the relievable amount”) equal to N% of A.

(3) The amount of the relief is given by—

$$\mathbf{BR \times L}$$

where BR is the basic rate of income tax for the year, and L is the lower of—

- (a) the total of—
  - (i) the relievable amount, and
  - (ii) any difference available in relation to the trustees of the settlement and the property business for carry-forward to the year under subsection (4), and
- (b) the profits for income tax purposes of the property business for the year after any deduction under section 118 of ITA 2007 (“the adjusted profits”) or, if less, the share of the adjusted profits—
  - (i) on which the trustees of the settlement are liable to income tax, and
  - (ii) which, in relation to the trustees of the settlement, is accumulated or discretionary income.

(4) Where the amount (“AY”) of the relief under this section for the year in respect of the relievable amount is less than—

$$\mathbf{BR \times T}$$

where BR is the basic rate of income tax for the year and T is the total found at subsection (3)(a), the difference between—

- (a) T, and
  - (b) AY divided by BR (with BR expressed as a fraction for this purpose),
- is available in relation to the trustees of the settlement and the property business for carry-forward to the following tax year.

(5) In this section “accumulated or discretionary income” has the meaning given by section 480 of ITA 2007.”

(6) In section 322 (which lists provisions relying on the definition of “commercial letting of furnished holiday accommodation”)—

- (a) in subsections (2) and (2A), before paragraph (a) insert—



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- “(za) section 272B(4) (exception from restriction on deductibility of finance costs),”
  - (b) in subsection (2), before the “and” at the end of paragraph (g) insert—
    - “(ga) section 399A(9) of ITA 2007 (exception from restriction on deductibility of interest on loans to invest in partnerships),”
    - and”
  - (c) in subsection (2A), before the “and” at the end of paragraph (e) insert—
    - “(ea) section 399A(9) of ITA 2007 (exception from restriction on deductibility of interest on loans to invest in partnerships),”.
- (7) In ITA 2007, after section 399 insert—

**“399A Property partnerships: restriction of relief for investment loan interest**

- (1) This section applies to interest on a loan within section 398 if—
  - (a) the partnership concerned carries on a property business, and
  - (b) that property business or part of it is carried on for the purpose of generating income from—
    - (i) land consisting of a dwelling-house or part of a dwelling-house, or
    - (ii) an estate, interest or right in or over land within subparagraph (i).
- (2) Subsections (3) to (6) have effect to restrict relief under section 383(1) for so much of the interest as is referable (on a just and reasonable apportionment) to the property business or (as the case may be) the part of it within subsection (1)(b).
- (3) For the tax year 2017-18, the amount of that relief is 75% of what would be given apart from this section.
- (4) For the tax year 2018-19, the amount of that relief is 50% of what would be given apart from this section.
- (5) For the tax year 2019-20, the amount of that relief is 25% of what would be given apart from this section.
- (6) For the tax year 2020-21 and subsequent tax years, that interest is not eligible for relief under this Chapter.
- (7) Section 399(4) is to be applied in relation to the tax year to which subsection (3), (4) or (5) applies before that subsection is applied in relation to that tax year.
- (8) Anything that in the course of a property business is done for creating (by construction or adaptation) a dwelling-house, or part of a dwelling-house, from which income is to be generated is, for the purposes of subsection (1)(b), to be treated as done for the purpose mentioned in subsection (1)(b).
- (9) A property business, or part of a property business, that consists of the commercial letting of furnished holiday accommodation (as defined by Chapter 6 of Part 3 of ITTOIA 2005) is not within subsection (1)(b).

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- (10) A reference in this section to a “dwelling-house” includes any land occupied or enjoyed with it as its garden or grounds.
- (11) In this section “property business” means a UK property business or an overseas property business.

**399B Property partnerships: tax reduction for non-deductible loan interest**

- (1) Subsections (2) and (3) apply if for a tax year an individual would be given relief for an amount (“the relievable amount”) by section 383(1) but for section 399A.
- (2) The individual is entitled to relief under this section for the tax year in respect of the relievable amount.
- (3) The amount of the relief is given by—

$$\text{BR} \times \text{the relievable amount}$$

where BR is the basic rate of income tax for the year.”

- (8) In section 26(1)(a) of ITA 2007 (tax reductions deductible at Step 6 of the calculation in section 23 of ITA 2007)—
  - (a) after the entry for Chapter 1 of Part 7 of ITA 2007 insert—
 

“section 399B (relief for non-deductible interest on loan to invest in partnership with residential property business),” and
  - (b) before the entry for section 535 of ITTOIA 2005 insert—
 

“section 274A of ITTOIA 2005 (property business: relief for non-deductible costs of a dwelling-related loan),”.
- (9) In section 26(2) of ITA 2007 (tax reductions deductible at Step 6 of the calculation in section 23 of ITA 2007 in the case of taxpayer who is not an individual), before the “and” at the end of paragraph (a) insert—
  - “(aa) section 274B of ITTOIA 2005 (trusts with accumulated or discretionary income derived from property business: relief for non-deductible costs of dwelling-related loans),”.

**25 Enterprise investment scheme**

Schedule 5 contains amendments of Part 5 of ITA 2007 (enterprise investment scheme).

**26 Venture capital trusts**

Schedule 6 contains amendments of Part 6 of ITA 2007 (venture capital trusts).

**27 EIS, VCTs etc: excluded activities**

- (1) In section 192 of ITA 2007 (excluded activities for the purposes of sections 181 and 189 (and, by virtue of section 257HF(2), Part 5A)), in subsection (1)—
  - (a) in paragraph (kb), omit the final “and”;
  - (b) after paragraph (kb) insert—

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“(kc) making reserve electricity generating capacity available (or, where such capacity has been made available, using it to generate electricity), and”.

(2) In section 303 of ITA 2007 (excluded activities for the purposes of sections 290 and 300), in subsection (1)—

(a) in paragraph (kb), omit the final “and”;

(b) after paragraph (kb) insert—

“(kc) making reserve electricity generating capacity available (or, where such capacity has been made available, using it to generate electricity), and”.

(3) The amendment made by subsection (1) has effect in relation to shares issued on or after 30 November 2015.

(4) The amendment made by subsection (2) has effect in relation to relevant holdings issued on or after 30 November 2015.

## **28 EIS, VCTs and EMI: meaning of “farming”**

(1) In section 996 of ITA 2007 (meaning of “farming” and related expressions), omit subsection (7).

(2) The amendment made by subsection (1)—

(a) in relation to the application of section 996 of ITA 2007 for the purposes of section 192(1) of that Act, has effect in relation to shares issued on or after the day on which this Act is passed;

(b) in relation to the application of section 996 of that Act for the purposes of section 303(1) of that Act, has effect for the purposes of determining whether shares or securities issued on or after that day are to be regarded as comprised in a company’s qualifying holdings;

(c) in relation to the application of section 996 for the purposes of paragraph 16 of Schedule 5 to ITEPA 2003, has effect in relation to options granted on or after that day.

## **29 Travel expenses of members of local authorities etc**

(1) ITEPA 2003 is amended as follows.

(2) In section 229(2) (mileage allowance payments), for “section 236(1)” substitute “sections 235A and 236(1)”.

(3) After section 235 insert—

### **“235A Journeys made by members of local authorities etc**

(1) Subject to subsections (2) and (3), a qualifying journey made by a member of a relevant authority is to be treated as business travel for the purposes of this Chapter if a qualifying payment is made by the authority—

(a) to the member for expenses related to the member’s use for the journey of a vehicle to which this Chapter applies, or

(b) to another member of the authority for carrying the member as a passenger on the journey in a car or van.

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- (2) A qualifying journey is not to be treated as business travel—
  - (a) for the purposes of section 231, or
  - (b) when calculating for the purposes of that section the mileage allowance payments paid to the member in respect of the journey and the approved amount for such payments.
- (3) If a journey made by a member of a relevant authority is a qualifying journey and a qualifying payment is made to the member for carrying a passenger on the journey, the member’s journey is not to be treated as business travel in respect of that passenger for the purposes of sections 233 and 234 unless the passenger is also a member of the authority.
- (4) A journey made by a member of a relevant authority is a “qualifying journey” for the purposes of this section if—
  - (a) it is a journey between the member’s home and permanent workplace, and
  - (b) the member’s home is situated in the area of the authority, or no more than 20 miles outside the boundary of the area.
- (5) In this section “permanent workplace” has the same meaning as in Part 5 (see section 339).
- (6) The Treasury may by regulations—
  - (a) provide for bodies specified in the regulations (which must be local authorities or bodies that have similar or related functions or purposes) to be relevant authorities for the purposes of this section,
  - (b) provide for references in this section to a member of a relevant authority to be read as references to a member of a description prescribed in the regulations, and
  - (c) define what is meant by “qualifying payment” for the purposes of this section.
- (7) The regulations may contain transitional provision and savings.”
- (4) In section 236 (interpretation of Chapter 2 of Part 4), after subsection (1) insert—
  - “(1A) For journeys that are treated as business travel for the purposes of certain provisions of this Chapter, see section 235A (journeys made by members of local authorities etc).”
- (5) After section 295 insert—

*“Members of local authorities etc*

#### **295A Travel expenses of members of local authorities etc**

- (1) No liability to income tax arises in respect of a qualifying payment made to a member of a relevant authority for travel expenses incurred by the member if—
  - (a) the payment is for expenses other than those related to the member’s use of a vehicle to which Chapter 2 applies, and
  - (b) the expenses are not excluded by subsection (2).

- (2) Expenses are excluded by this subsection if—
  - (a) they are incurred on a journey between the member’s home and permanent workplace, and
  - (b) the member’s home is situated more than 20 miles outside the boundary of the area of the relevant authority.
- (3) In this section “permanent workplace” has the same meaning as in Part 5 (see section 339).
- (4) The Treasury may by regulations—
  - (a) provide for bodies specified in the regulations (which must be local authorities or bodies that have similar or related functions or purposes) to be relevant authorities for the purposes of this section,
  - (b) provide for references in this section to a member of a relevant authority to be read as references to a member of a description prescribed in the regulations, and
  - (c) define what is meant by “qualifying payment” for the purposes of this section.
- (5) The regulations may contain transitional provision and savings.”
- (6) In Schedule 1 (index of defined expressions), in the entry relating to business travel in Chapter 2 of Part 4, for “section 236(1)” substitute “sections 235A and 236(1)”.
- (7) The amendments made by this section have effect for the tax year 2016-17 and subsequent tax years.

### **30 London Anniversary Games**

- (1) A duly accredited competitor who performs an Anniversary Games activity is not liable to income tax in respect of any income arising from the activity if the non-residence condition is met.
- (2) The following are Anniversary Games activities—
  - (a) competing at the Anniversary Games, and
  - (b) any activity that is performed during the Games period the main purpose of which is to support or promote the Anniversary Games.
- (3) The non-residence condition is that—
  - (a) the accredited competitor is non-UK resident for the tax year 2015-16, or
  - (b) the accredited competitor is UK resident for the tax year 2015-16 but the year is a split year as respects the competitor and the activity is performed in the overseas part of the year.
- (4) Section 966 of ITA 2007 (deductions 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).
- (5) In this section—
  - “Anniversary Games” means the athletics event held at the Olympic Stadium in London on 24 - 26 July 2015;
  - “Games period” means the period—
    - (a) beginning with 22 July 2015, and

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(b) ending with 28 July 2015;

“income” means employment income or profits of a trade, profession or vocation (including profits treated as arising as result of section 13 of ITTOIA 2005).

(6) This section is treated as having come into force on 8 July 2015.

### *Corporation tax*

## **31 R&D expenditure credits: ineligible companies**

(1) CTA 2009 is amended as follows.

(2) In section 104A (R&D expenditure credits), after subsection (7) insert—

“(7A) Section 104WA contains provision about ineligible companies.”

(3) After section 104W insert—

### *“Ineligible companies*

#### **104WA Ineligible companies**

(1) No claim for an R&D expenditure credit may be made in respect of expenditure incurred by an ineligible company.

(2) In this section, “ineligible company” means a company that is—

(a) an institution of higher education (as defined by section 1142(1)(b)),

(b) a charity, or

(c) a company of a description prescribed by the Treasury by regulations.”

(4) In section 1310(4) (orders and regulations subject to affirmative procedure), before paragraph (zza) insert—

“(zza) section 104WA (ineligible companies for the purposes of R&D expenditure credits).”

(5) The amendments made by this section have effect in relation to expenditure incurred on or after 1 August 2015.

## **32 Loan relationships and derivative contracts**

Schedule 7 contains provisions relating to loan relationships and derivative contracts.

## **33 Intangible fixed assets: goodwill etc**

(1) Part 8 of CTA 2009 (intangible fixed assets) is amended as follows.

(2) In section 715 (application of Part 8 to goodwill), in subsection (2), at the end insert “(see, in particular, section [816A](#) (restrictions on goodwill and certain other assets))”.

(3) In section 746 (“non-trading credits” and “non-trading debits”), in subsection (2), for paragraph (ba) substitute—

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- “(ba) section 816A (restrictions on goodwill and certain other assets), and”.
- (4) In section 800 (introduction to Chapter 10: excluded assets), in subsection (2)(c)—
- (a) for “section 814 or 815” substitute “any of sections 814 to 816A”, and
  - (b) for “that section” substitute “the section concerned”.
- (5) After section 816 insert—

**“816A Restrictions on goodwill and certain other assets**

- (1) This section applies if a company acquires or creates a relevant asset.
- (2) “Relevant asset” means—
- (a) goodwill,
  - (b) an intangible fixed asset that consists of information which relates to customers or potential customers of a business,
  - (c) an intangible fixed asset that consists of a relationship (whether contractual or not) between a person carrying on a business and one or more customers of that business,
  - (d) an unregistered trade mark or other sign used in the course of a business, or
  - (e) a licence or other right in respect of an asset within any of paragraphs (a) to (d).
- (3) No debits are to be brought into account by the company for tax purposes, in respect of the relevant asset, under Chapter 3 (debts in respect of intangible fixed assets).
- (4) Any debit brought into account by the company for tax purposes, in respect of the relevant asset, under Chapter 4 (realisation of intangible fixed assets) is treated for the purposes of Chapter 6 as a non-trading debit.”
- (6) In section 844 (overview of Chapter 13: transactions between related parties), omit subsection (2A).
- (7) Omit sections 849B to 849D (restrictions relating to goodwill etc acquired from a related individual or firm) and the italic heading immediately before those sections.
- (8) In consequence of the amendments made by this section, in FA 2015, omit section 26.
- (9) The amendments made by this section have effect in relation to accounting periods beginning on or after 8 July 2015.
- (10) But the amendments made by this section do not apply in a case in which a company acquires a relevant asset if the company does so—
- (a) before 8 July 2015, or
  - (b) in pursuance of an obligation, under a contract, that was unconditional before that date.
- (11) For the purposes of subsection (9), an accounting period beginning before, and ending on or after, 8 July 2015 is to be treated as if so much of the accounting period as falls before that date, and so much of the accounting period as falls on or after that date, were separate accounting periods.

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- (12) An apportionment for the purposes of subsection (11) must be made in accordance with section 1172 of CTA 2010 (time basis) or, if that method produces a result that is unjust or unreasonable, on a just and reasonable basis.
- (13) For the purposes of subsection (10)(b), an obligation is “unconditional” if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

### **34 Election of designated currency by UK resident investment company**

- (1) Chapter 4 of Part 2 of CTA 2010 (currency) is amended as follows.
- (2) Section 9A (designated currency of a UK resident investment company) is amended as follows.
- (3) For subsection (2) substitute—
  - “(2) An election under this section by a company (“X”) takes effect only if, at the time when it is to take effect (see section 9B(1))—
    - (a) X is a UK resident investment company, and
    - (b) Condition A or Condition B is met.”
- (4) Omit subsection (3).
- (5) After subsection (8) insert—
  - “(9) In relation to any period of account for which a currency is X’s designated currency as a result of an election under this section, profits or losses of X that fall to be calculated in accordance with generally accepted accounting practice for corporation tax purposes must be calculated as if—
    - (a) the designated currency were the functional currency of the company, and
    - (b) no part of X’s business could, in accordance with generally accepted accounting practice, be regarded as having another currency as its functional currency.”
- (6) Section 9B (period for which election under section 9A has effect) is amended as follows.
- (7) In subsection (1), for “section 9A(2)(a)” substitute “section 9A”.
- (8) Omit subsection (2).
- (9) In subsection (3), for “section 9A(2)(a)” substitute “section 9A”.
- (10) In subsection (6), for the words from the beginning to “only” substitute “A revocation event occurs in the period of account in which X’s first accounting period begins”.
- (11) After subsection (6) insert—
  - “(6A) A revocation event also occurs in a period of account (whether or not a period to which subsection (6) applies) if, at any time during that period, X ceases to be a UK resident investment company.”
- (12) In subsection (7)(a), for “section 9A(2)(a)” substitute “section 9A”.
- (13) In section 17 (interpretation of Chapter), for subsection (4) substitute—



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“(4) References in this Chapter to the functional currency of a company or of part of a company’s business are references to the currency of the primary economic environment in which the company or part operates.”

- (14) This section has effect in relation to periods of account beginning on or after 1 January 2016.
- (15) Subsections (16) and (17) apply if a period of account of a company (“the straddling period of account) begins before, and ends on or after, 1 January 2016.
- (16) It is to be assumed, for the purposes of this section, that the straddling period of account consists of two separate periods of account—
- (a) the first beginning with the straddling period of account and ending immediately before 1 January 2016, and
  - (b) the second beginning with that day and ending with the straddling period of account.
- (17) For the purposes of this section, it is to be assumed—
- (a) that the company prepares its accounts for each of the two periods in the same currency, and otherwise on the same basis, as it prepares its accounts for the straddling period of account, and
  - (b) that if the accounts for the straddling period of account, in accordance with generally accepted accounting practice, identify a currency as the company’s functional currency, the accounts for each of the two periods do likewise.

### **35 Group relief**

- (1) In section 133 of CTA 2010 (claims for group relief: consortium conditions 2 and 3)—
- (a) in subsection (1)—
    - (i) at the end of paragraph (e) insert “and”, and
    - (ii) omit paragraph (g) and the “and” before it,
  - (b) in subsection (2)—
    - (i) at the end of paragraph (e) insert “and”, and
    - (ii) omit paragraph (g) and the “and” before it, and
  - (c) omit subsections (5) to (8).
- (2) Accordingly—
- (a) in section 129(2) of CTA 2010 for “134A” substitute “134”,
  - (b) in section 130(2) of that Act—
    - (i) in paragraph (c), for “and (3) to (8)” substitute “, (3) and (4)”, and
    - (ii) in paragraph (d), for “(8)” substitute “(4)”,
  - (c) omit section 134A of that Act, and
  - (d) in Schedule 6 to the Finance (No. 3) Act 2010, omit paragraphs 4(4) and 5.
- (3) The amendments made by this section have effect in relation to accounting periods beginning on or after 10 December 2014.

### **36 CFC charge: abolition of relief**

- (1) In Part 9A of TIOPA 2010 (controlled foreign companies), omit section 371UD (relief against sum charged).

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- (2) Accordingly, omit the following provisions—
- (a) in CTA 2010, section 398D(6) and (6A);
  - (b) in FA 2012, in Schedule 20, paragraph 38;
  - (c) in FA 2015, in Schedule 2, paragraphs 6 and 8;
  - (d) in the Corporation Tax (Northern Ireland) Act 2015, in Schedule 2, paragraph 3.
- (3) The amendments made by this section have effect in relation to accounting periods of CFCs beginning on or after 8 July 2015.
- (4) Subsection (5) applies where a CFC has an accounting period beginning before 8 July 2015 and ending on or after that date (“the straddling period”).
- (5) For the purposes of determining the relief to which a chargeable company in relation to the straddling period is entitled under section 371UD of TIOPA 2010, or on the making of a claim would be so entitled—
- (a) so much of the straddling period as falls before 8 July 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and
  - (b) any amount charged on the company in accordance with section 371BC of TIOPA 2010 in relation to the straddling period is to be apportioned on a just and reasonable basis between those two periods.
- (6) In this section, “CFC”, “accounting period” in relation to a CFC, and “chargeable company” have the same meanings as in Part 9A of TIOPA 2010.

### **37 CFC charge: tax avoidance involving carried-forward losses**

- (1) Part 14B of CTA 2010 (tax avoidance involving carried-over losses) is amended as follows.
- (2) In section 730G (disallowance of deductions for relevant carried-forward losses), in subsection (4), after “a relevant corporation tax advantage” insert “or a relevant CFC charge advantage”.
- (3) In that section, after subsection (5) insert—
- “(5A) In this section “relevant CFC charge advantage” means a CFC charge advantage involving the deductible amount mentioned in subsection (3).”
- (4) In that section, in subsection (7)—
- (a) in paragraph (a)—
    - (i) for “the” substitute “any”;
    - (ii) omit the final “and”;
  - (b) after that paragraph insert—
    - “(aa) any relevant CFC charge advantage, and”;
  - (c) in paragraph (b), at the end insert “or the relevant CFC charge advantage”.
- (5) In that section, in subsection (8), after “subsection (7)(a)” insert “, (aa)”.
- (6) In section 730H (interpretation), in subsection (1), after the definition of “arrangements” insert—

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““CFC charge advantage” means the avoidance or reduction of a charge or assessment to a charge under Part 9A of TIOPA 2010 (controlled foreign companies);”.

- (7) The amendments made by this section have effect for the purposes of calculating the taxable total profits of companies for accounting periods beginning on or after after 8 July 2015.
- (8) For the purposes of the amendments made by this section, where a company has an accounting period beginning before 8 July 2015 and ending on or after that date (“the straddling period”)—
- (a) so much of the straddling period as falls before 8 July 2015, and so much of that period as falls on or after that date, are treated as separate accounting periods, and
  - (b) any amounts brought into account for the purposes of calculating the taxable total profits of the company for the straddling period are to be apportioned to the two separate accounting periods—
    - (i) in accordance with section 1172 of CTA 2010, and
    - (ii) if that method would produce a result that is unjust or unreasonable, on a just and reasonable basis.

### **38 Restitution interest payments**

- (1) CTA 2010 is amended as follows.
- (2) In section 1 (overview of Act), in subsection (3), after paragraph (ac) insert—  
“(ad) restitution interest (see Part 8C),”.
- (3) After Part 8B insert—

## **“PART 8C**

### **RESTITUTION INTEREST**

#### **CHAPTER 1**

##### **AMOUNTS TAXED AS RESTITUTION INTEREST**

#### **357YA Charge to corporation tax on restitution interest**

The charge to corporation tax on income applies to restitution interest arising to a company.

#### **357YB Restitution interest chargeable as income**

- (1) Profits arising to a company which consist of restitution interest are chargeable to tax as income under this Part (regardless of whether the profits are of an income or capital nature).
- (2) In this Part references to “profits” are to be interpreted in accordance with section 2(2) of CTA 2009.

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### **357YC Meaning of “restitution interest”**

- (1) In this Part “restitution interest” means profits in relation to which Conditions A to C are met.
- (2) Condition A is that the profits are interest paid or payable by the Commissioners in respect of a claim by the company for restitution with regard to either of the following matters (or alleged matters)—
  - (a) the payment of an amount to the Commissioners under a mistake of law relating to a taxation matter, or
  - (b) the unlawful collection by the Commissioners of an amount in respect of taxation.
- (3) Condition B is that—
  - (a) a court has made a final determination that the Commissioners are liable to pay the interest, or
  - (b) the Commissioners and the company, have in final settlement of the claim, entered into an agreement under which the company is entitled to be paid, or is to retain, the interest.
- (4) Condition C is that the interest determined to be due, or agreed upon, as mentioned in subsection (3) is not limited to simple interest at a statutory rate (see section 357YU).
- (5) Subsection (4) does not prevent so much of an amount of interest determined to be due, or agreed upon, as represents or is calculated by reference to simple interest at a statutory rate from falling within the definition of “restitution interest”.
- (6) For the purposes of subsection (2) it does not matter whether the interest is paid or payable—
  - (a) pursuant to a judgment or order of a court,
  - (b) as an interim payment in court proceedings,
  - (c) under an agreement to settle a claim, or
  - (d) in any other circumstances.
- (7) For the purposes of this section—
  - (a) “interest” includes an amount equivalent to interest, and
  - (b) an amount paid or payable by the Commissioners as mentioned in subsection (2) is “equivalent to interest” so far as it is an amount determined by reference to the time value of money.
- (8) For the purposes of this section a determination made by a court is “final” if the determination cannot be varied on appeal (whether because of the absence of any right of appeal, the expiry of a time limit for making an appeal without an appeal having been brought, the refusal of permission to appeal, the abandonment of an appeal or otherwise).
- (9) Any power to grant permission to appeal out of time is to be disregarded for the purposes of subsection (8).

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### **357YD Further provision about amounts included, or not included, in “restitution interest”**

- (1) Interest paid to a company is not restitution interest for the purposes of this Part if—
  - (a) Condition B was not met in relation to the interest until after the interest was paid, and
  - (b) the amount paid was limited to simple interest at a statutory rate
- (2) Subsection (1) does not prevent so much of a relevant amount of interest determined to be due, agreed upon or otherwise paid as represents or is calculated by reference to simple interest at a statutory rate from falling within the definition of “restitution interest”.
- (3) In subsection (2) “relevant amount of interest” means an amount of interest the whole of which was paid before Condition B was met in relation to it.
- (4) Section 357YC(7) applies in relation to this section as in relation to section 357YC.

### **357YE Period in which amounts are to be brought into account**

- (1) The amounts to be brought into account as restitution interest for any period for the purposes of this Part are those that are recognised in determining the company’s profit or loss for the period in accordance with generally accepted accounting practice.
- (2) If Condition A in section 357YC is met, in relation to any amount, after the end of the period for which the amount is to be brought into account as restitution interest in accordance with subsection (1), any necessary adjustments are to be made; and any time limits for the making of adjustments are to be disregarded for this purpose.

### **357YF Companies without GAAP-compliant accounts**

- (1) If a company—
  - (a) draws up accounts which are not GAAP-compliant accounts, or
  - (b) does not draw up accounts at all,this Part applies as if GAAP-compliant accounts had been drawn up.
- (2) Accordingly, references in this Part to amounts recognised for accounting purposes are references to amounts that would have been recognised if GAAP-compliant accounts had been drawn up for the period of account in question and any relevant earlier period.
- (3) For this purpose a period of account is relevant to a later period if the accounts for the later period rely to any extent on amounts derived from the earlier period.
- (4) In this section “GAAP-compliant accounts” means accounts drawn up in accordance with generally accepted accounting practice.

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*Status: This is the original version (as it was originally enacted).*

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### **357YG Restitution interest: appeals made out of time**

- (1) This section applies where—
  - (a) an amount of interest (“the interest”) arises to a company as restitution interest for the purposes of this Part,
  - (b) Condition B in section 357YC is met in relation to the interest as a result of the making by a court of a final determination as mentioned in subsection (3)(a) of that section,
  - (c) on a late appeal (or a further appeal subsequent to such an appeal) a court reverses that determination, or varies it so as to negative it, and
  - (d) the determination reversing or varying the determination by virtue of which Condition B was met is itself a final determination.
- (2) This Part has effect as if the interest had never been restitution interest.
- (3) If—
  - (a) the Commissioners for Her Majesty’s Revenue and Customs have under section 357YO(2) deducted a sum representing corporation tax from the interest, or
  - (b) a sum has been paid as corporation tax in respect of the interest under section 357YQ,
 that sum is treated for all purposes as if it had never been paid to, or deducted or held by, the Commissioners as or in respect of corporation tax.
- (4) Any adjustments are to be made that are necessary in accordance with this section; and any time limits applying to the making of adjustments are to be ignored.
- (5) In this section—
 

“final determination” has the same meaning as in section 357YC;

“late appeal” means an appeal which is made by reason of a court giving leave to appeal out of time.

### **357YH Countering effect of avoidance arrangements**

- (1) Any restitution-related tax advantages that would (in the absence of this section) arise from relevant avoidance arrangements are to be counteracted by the making of such adjustments as are just and reasonable in relation to amounts to be brought into account for the purposes of this Part.
- (2) Any adjustments required to be made under this section (whether or not by an officer of Revenue and Customs) may be made by way of an assessment, the modification of an assessment, amendment or otherwise.
- (3) For the meaning of “relevant avoidance arrangements” and “restitution-related tax advantage” see section 357YI.

### **357YI Interpretation of section 357YH**

- (1) This section applies for the interpretation of section 357YH (and this section).

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- (2) “Arrangements” include any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (3) Arrangements are “relevant avoidance arrangements” if their main purpose, or one of their main purposes, is to enable a company to obtain a tax advantage in relation to the application of the charge to tax at the restitution payments rate.
- (4) But arrangements are not “relevant avoidance arrangements” if the obtaining of any tax advantages that would (in the absence of section 357YH) arise from them can reasonably be regarded as consistent with wholly commercial arrangements.
- (5) “Tax advantage” includes—
  - (a) a repayment of tax or increased repayment of tax,
  - (b) the avoidance or reduction of a charge to tax or an assessment to tax,
  - (c) the avoidance of a possible assessment to tax,
  - (d) deferral of a payment of tax or advancement of a repayment of tax, or
  - (e) the avoidance of an obligation to deduct or account for tax.
- (6) In subsection (5)(b) and (c) the references to avoidance or reduction include an avoidance or reduction effected by receipts accruing in such a way that the recipient does not bear tax on them as restitution interest under this Part.

### **357YJ Examples of results that may indicate exclusion not applicable**

Each of the following is an example of something which might indicate that arrangements whose main purpose, or one of whose main purposes, is to enable a company to obtain a restitution-related tax advantage are not excluded by section 357YI(4) from being “relevant avoidance arrangements” for the purposes of section 357YH—

- (a) the elimination or reduction for the purposes of this Part of amounts chargeable as restitution interest arising to the company in connection with a particular claim, if for economic purposes other or greater profits arise to the company in connection with the claim;
- (b) preventing or delaying the recognition as an item of profit or loss of an amount that would apart from the arrangements be recognised in the company’s accounts as an item of profit or loss, or be so recognised earlier;
- (c) ensuring that a receipt is treated for accounting purposes in a way in which it would not have been treated in the absence of some other transaction forming part of the arrangements.

## **CHAPTER 2**

### **APPLICATION OF RESTITUTION PAYMENTS RATE**

#### **357YK Corporation tax rate on restitution interest**

- (1) Corporation tax is charged on restitution interest at the restitution payments rate.

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- (2) The “restitution payments rate” is 45%.

**357YL Exclusion of reliefs, set-offs etc**

- (1) Under subsection (3) of section 4 (amounts to which rates of corporation tax applied) the amounts to be added together to find a company’s “total profits” do not include amounts of restitution interest on which corporation tax is chargeable under this Part.
- (2) No reliefs or set-offs may be given against so much of the corporation tax to which a company is liable for an accounting period as is equal to the amount of corporation tax chargeable on the company for the period at the restitution payments rate.
- (3) In subsection (2) “reliefs and set-offs” includes, but is not restricted to, those listed in the second step of paragraph 8(1) of Schedule 18 to FA 1998.
- (4) Amounts of income tax or corporation tax, or any other amounts, which may be set off against a company’s overall liability to income tax and corporation tax for an accounting period may not be set off against so much of the corporation tax to which the company is liable for the period as is equal to the amount of corporation tax chargeable at the restitution payments rate.

**CHAPTER 3**

MIGRATION, TRANSFERS OF RIGHTS ETC

**357YM Assignment of rights to person not chargeable to corporation tax**

- (1) Subsection (4) applies if—
- (a) a company which is within the charge to corporation tax under this Part (“the transferor”) transfers to a person who is not within the charge to corporation tax under this Part a right in respect of a claim, or possible claim, for restitution,
  - (b) the transfer is made on or after 21 October 2015, and
  - (c) conditions A and B are met.
- (2) Condition A is that the main purpose, or one of the main purposes, of the transfer is to secure a tax advantage for any person in relation to the application of the charge to tax on restitution interest under this Part.
- (3) Condition B is that as a result of that transfer (or that transfer together with further transfers of the rights) restitution interest arises to a person who is not within the charge to corporation tax under this Part.
- (4) Any restitution interest which arises as mentioned in Condition B is treated for corporation tax purposes as restitution interest arising to the transferor.
- (5) A person is “within the charge to corporation tax under this Part” if the person—
- (a) is a UK resident company, and



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- (b) would not be exempt from corporation tax on restitution interest (were such interest to arise to it).

(6) In this section “tax advantage” has the meaning given by section 357YI.

### **357YN Migration of company with claim to restitution interest**

- (1) This section applies where—
  - (a) restitution interest arises to a non-UK resident company,
  - (b) the rights in respect of which the company is entitled to the restitution interest had (to any extent) accrued when the company ceased to be UK resident, and
  - (c) the company’s main purpose, or one of its main purposes, in changing its residence was to secure a tax advantage for any person in relation to the application of the charge to tax on restitution interest under this Part.
- (2) The company is treated as a UK resident company for the purposes of the application of this Part in relation to so much of that restitution interest as is attributable to relevant accrued rights.
- (3) “Relevant accrued rights” means rights which had accrued to the company when it ceased to be UK resident.
- (4) The company is to be treated for the purposes of sections 185 and 187 of TCGA 1992 as not having disposed of its assets on ceasing to be resident in the United Kingdom, so far as its assets at that time consisted of rights to receive restitution interest.
- (5) Any adjustments that are necessary as a result of subsection (4) are to be made; and any time limits for the making of adjustments are to be ignored for this purpose.

## **CHAPTER 4**

### **PAYMENT AND COLLECTION OF TAX ON RESTITUTION INTEREST**

#### **357YO Duty to deduct tax from payments of restitution interest**

- (1) Subsection (2) applies if the Commissioners for Her Majesty’s Revenue and Customs pay an amount of interest in relation to which Conditions 1 and 2 are met and—
  - (a) the amount is (when the payment is made) restitution interest on which a company is chargeable to corporation tax under this Part, or
  - (b) a company would be chargeable to corporation tax under this Part on the interest paid if it were (at that time) restitution interest.
- (2) The Commissioners must, on making the payment—
  - (a) deduct from it a sum representing corporation tax on the amount at the restitution payments rate, and
  - (b) give the company a written notice stating the amount of the gross payment and the amount deducted from it.

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- (3) Condition 1 is that the Commissioners are liable to pay, or have agreed or determined to pay, the interest in respect of a company's claim for restitution with regard to—
- (a) the payment of an amount to the Commissioners under a mistake of law relating to a taxation matter, or
  - (b) the unlawful collection by the Commissioners of an amount in respect of taxation.
- (4) Condition 2 is that the interest is not limited to simple interest at a statutory rate.
- In determining whether or not this condition is met, all amounts which the Commissioners are liable to pay, or have agreed or determined to pay in respect of the claim are to be considered together.
- (5) For the purposes of Condition 1 it does not matter whether the Commissioners are liable to pay, or (as the case may be) have agreed or determined to pay, the interest—
- (a) pursuant to a judgment or order of a court,
  - (b) as an interim payment in court proceedings,
  - (c) under an agreement to settle a claim, or
  - (d) in any other circumstances.
- (6) For the purposes of subsection (2) the restitution payments rate is to be applied to the gross payment, that is to the payment before deduction of a sum representing corporation tax in accordance with this section.
- (7) For the purposes of this section—
- (a) “interest” includes an amount equivalent to interest, and
  - (b) an amount which the Commissioners pay as mentioned in subsection (1) is “equivalent to interest” so far as it is an amount determined by reference to the time value of money.

### **357YP Treatment of amounts deducted under section 357YO**

- (1) An amount deducted from an interest payment in accordance with section 357YO(2) is treated for all purposes as paid by the company mentioned in section 357YO(1) on account of the company's liability, or potential liability, to corporation tax charged on the interest payment, as restitution interest, under this Part.
- (2) Subsections (3) and (4) apply if—
- (a) the Commissioners have, on paying an amount which is not (when the payment is made) restitution interest, made a deduction under section 357YO(2) from the gross payment (see section 357YO(6)), and
  - (b) a company becomes liable to repay the net amount to the Commissioners, or it otherwise becomes clear that the gross amount cannot, or will not, become restitution interest.
- (3) If the condition in subsection (2)(b) is met in circumstances where the company is not liable to repay the net amount to the Commissioners, the Commissioners must—

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- (a) repay to the company the amount treated under subsection (1) as paid by the company, and
  - (b) make any other necessary adjustments;and any time limits applying to the making of adjustments are to be ignored.
- (4) If the condition in subsection (2)(b) is met by virtue of a company becoming liable to repay to the Commissioners the amount paid as mentioned in subsection (2)(a)—
  - (a) this Part has effect as if the company were liable to repay the gross payment to the Commissioners, and
  - (b) the amount deducted by the Commissioners as mentioned in subsection (2)(a) is to be treated for the purposes of this Part as money repaid by the company in partial satisfaction of its liability to repay the gross amount.
- (5) Subsections (3) and (4) have effect with the appropriate modifications if the condition in subsection (2)(b) is met in relation to part but not the whole of the gross amount mentioned in subsection (2)(a).
- (6) In this section “the net amount”, in relation to a payment made under deduction of tax in accordance with section 357YO(2), means the amount paid after deduction of tax.

#### **357YQ Assessment of tax chargeable on restitution interest**

- (1) An officer of Revenue and Customs may make an assessment of the amounts in which, in the officer’s opinion, a company is chargeable to corporation tax under this Part for a period specified in the assessment.
- (2) Notice of an assessment under this section must be served on the company, stating the date on which the assessment is issued.
- (3) An assessment may include an assessment of the amount of restitution income arising to the company in the period and any other matters relevant to the calculation of the amounts in which the company is chargeable to corporation tax under this Part for the period.
- (4) Notice of an assessment under this section may be accompanied by notice of any determination by an officer of Revenue and Customs relating to the dates on which amounts of tax become due and payable under this section or to amounts treated under section 357YP as paid on account of corporation tax.
- (5) The company must pay the amount assessed as payable for the accounting period by the end of the period of 30 days beginning with the date on which the company is given notice of the assessment.

#### **357YR Interest on excessive amounts withheld**

- (1) If an amount deducted under section 357YO(2) in respect of an amount of interest exceeds the amount which should have been deducted, the Commissioners are liable to pay interest on the excess from the material date until the date on which the excess is repaid.
- (2) The “material date” is the date on which tax was deducted from the interest.

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- (3) Interest under subsection (1) is to be paid at the rate applicable under section 178 of FA 1989.

### **357YS Appeal against deduction**

- (1) An appeal may be brought against the deduction by the Commissioners for Her Majesty's Revenue and Customs from a payment of a sum representing corporation tax in compliance, or purported compliance, with section 357YO(2).
- (2) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after the giving of the notice under section 357YO(2).

### **357YT Amounts taxed at restitution payments rate to be outside instalment payments regime**

For the purposes of regulations under section 59E of TMA 1970 (further provision as to when corporation tax due and payable), tax charged at the restitution payments rate is to be disregarded in determining the amount of corporation tax payable by a company for an accounting period.

## **CHAPTER 5**

### SUPPLEMENTARY PROVISIONS

### **357YU Interpretation**

- (1) In this Part “court” includes a tribunal.
- (2) In this Part “statutory rate” (in relation to interest) means a rate which is equal to a rate specified—
- (a) for purposes relating to taxation, and
  - (b) in, or in a provision made under, an Act.

### **357YV Relationship of Part with other corporation tax provisions**

- (1) So far as restitution interest is charged to corporation tax under this Part it is not chargeable to corporation tax under any other provision.
- (2) This Part has effect regardless of section 464(1) of CTA 2009 (priority of loan relationship provisions).

### **357YW Power to amend**

- (1) The Treasury may by regulations amend this Part (apart from this section).
- (2) Regulations under this section—
- (a) may not widen the description of the type of payments that are chargeable to corporation tax under this Part;
  - (b) may not remove or prejudice any right of appeal;

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- (c) may not increase the rate at which tax is charged on restitution interest under this Part;
    - (d) may not enable any provision of this Part to have effect in relation to the subject matter of any claim which has been finally determined before 21 October 2015.
  - (3) Subject to subsection (2), regulations under this section may have retrospective effect.
  - (4) For the purposes of this section a claim is “finally determined” if a court has disposed of the claim by a final determination or the claimant and the Commissioners for Her Majesty’s Revenue and Customs have entered into an agreement in final settlement of the claim.
  - (5) Section 357YC(8) (which defines when a determination made by a court is final) has effect for the purposes of this section as for the purposes of section 357YC.
  - (6) Regulations under this section may include incidental, supplementary or transitional provision.
  - (7) A statutory instrument containing regulations under this section must be laid before the House of Commons.
  - (8) The regulations cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, the regulations are approved by a resolution of the House of Commons.
  - (9) In reckoning the 28-day period, no account is to be taken of any time during which—
    - (a) Parliament is dissolved or prorogued, or
    - (b) the House of Commons is adjourned for more than 4 days.
  - (10) Regulations ceasing to have effect by virtue of subsection (8) does not affect—
    - (a) anything previously done under the regulations, or
    - (b) the making of new regulations.”
- (4) In TMA 1970, in section 59D (general rule as to when corporation tax is due and payable)—
- (a) in subsection (3) after “with” insert “the first to fourth steps of”;
  - (b) in subsection (5) after “59E” insert “and section 357YQ of CTA 2010 (assessment of tax chargeable on restitution interest)”.
- (5) Paragraph 8 Schedule 18 to FA 1998 (company tax returns, assessments etc: calculation of tax payable) is amended as follows—
- (a) in paragraph 2 of the first step, after “company” insert “(other than the restitution payments rate)”;
  - (b) After the fourth step insert—
    - “*Fifth step*
    - Calculate the corporation tax chargeable on any profits of the company that are charged as restitution interest.

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1. Find the amount in respect of which the company is chargeable for the period under the charge to corporation tax on income under Part 8C of CTA 2010.
2. Apply the restitution payments rate in accordance with section 357YK(1) of that Act.

The amount of tax payable for the accounting period is the sum of the amounts resulting from the first to fourth steps and this step.”

- (6) Schedule 56 to FA 2009 (penalty for failure to make payments on time) is amended in accordance with subsections (7) and (8).

- (7) In paragraph 1, in the table after item 6 insert—

“6ZZA	Corporation tax	Amount payable under section 357YQ of CTA 2010	The end of the period within which, in accordance with section 357YQ(5), the amount must be paid.”
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- (8) In paragraph 4(1), for “or 6” substitute “, 6 or 6ZZA”.

- (9) The amendments made by subsections (1) to (8) have effect in relation to interest (whether arising before or on or after 21 October 2015) which falls within subsection (11).

- (10) Section 357YO of CTA 2010, and the amendments made by subsections (1) to (8) so far as relating to the deduction of tax under section 357YO, have effect in relation to payments of interest made on or after 26 October 2015.

This rule is not limited by the rule in subsection (9).

- (11) Interest arising to a company falls within this subsection if—

- (a) a determination made by a court that the Commissioners for Her Majesty’s Revenue and Customs are liable to pay the interest becomes final on or after 21 October 2015, or
- (b) on or after 21 October 2015 the Commissioners and a company enter into an agreement in final settlement of a claim for restitution, under which the company is entitled to be paid, or to retain, the interest.

- (12) In subsections (9) to (11)—

- (a) the reference to a determination made by a court becoming “final” is to be interpreted in accordance with section 357YC of CTA 2010;
- (b) the references to “interest” are to be interpreted in accordance with section 357YC of CTA 2010.”

### **39 Corporation tax instalment payments**

- (1) The Corporation Tax (Instalment Payments) (Amendment) Regulations 2014 ([S.I. 2014/2409](#)) are to be treated as always having had effect as if in regulation 1(2) (commencement) “ending” were substituted for “beginning”.

- (2) Consequently, for the purposes of the application of regulations 2(2) and 3(5B) of the Corporation Tax (Instalment Payments) Regulations 1998 ([S.I. 1998/3175](#)) to accounting periods beginning before, and ending on or after, 1 April 2015—

- (a) sections 279F and 279G of CTA 2010 are taken to have effect in relation to such periods, and
- (b) paragraph 22 of Schedule 1 to FA 2014 is to be disregarded accordingly.

*Income tax and corporation tax*

**40 Changes in trading stock not made in course of trade**

- (1) In section 161 of CTA 2009 (changes in trading stock: transfer pricing rules to take precedence), after subsection (1) insert—

“(1A) Subsection (1B) applies in relation to a disposal or acquisition if—

- (a) by virtue of subsection (1), section 159 or 160 does not apply, and
- (b) the market value amount is greater than the Part 4 TIOPA amount.

(1B) An amount equal to the market value amount less the Part 4 TIOPA amount is to be brought into account in calculating the profits of the trade (in addition to the Part 4 TIOPA amount).

(1C) In subsections (1A) and (1B)—

“market value amount” means the amount referred to in section 159(2)(a) or 160(2)(a);

“Part 4 TIOPA amount” means the amount which, following the application of Part 4 of TIOPA 2010 to the relevant consideration, is brought into account in respect of the relevant consideration in calculating the profits of the trade.”

- (2) In section 172F of ITTOIA 2005 (changes in trading stock: transfer pricing rules to take precedence), after subsection (1) insert—

“(1A) Subsection (1B) applies in relation to a disposal or acquisition if—

- (a) by virtue of subsection (1), section 172D or 172E does not apply, and
- (b) the market value amount is greater than the Part 4 TIOPA amount.

(1B) An amount equal to the market value amount less the Part 4 TIOPA amount is to be brought into account in calculating the profits of the trade (in addition to the Part 4 TIOPA amount).

(1C) In subsections (1A) and (1B)—

“market value amount” means the amount referred to in section 172D(2)(a) or 172E(2)(a);

“Part 4 TIOPA amount” means the amount which, following the application of Part 4 of TIOPA 2010 to the relevant consideration, is brought into account in respect of the relevant consideration in calculating the profits of the trade.”

- (3) The amendments made by this section apply in relation to a disposal or acquisition made on or after 8 July 2015, unless it is made pursuant to an obligation, under a contract, that was unconditional before that date.

- (4) For the purposes of subsection (3), an obligation is “unconditional” if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

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#### **41 Valuation of trading stock on cessation**

- (1) In section 162 of CTA 2009 (valuation of trading stock on cessation), after subsection (2) (transfer pricing rules to take precedence) insert—

“(2A) Subsection (2B) applies if—

- (a) by virtue of subsection (2), no valuation of the stock under this Chapter is required, and
- (b) the market value of the stock is greater than the Part 4 TIOPA amount.

(2B) An amount equal to the market value of the stock less the Part 4 TIOPA amount is to be brought into account in calculating the profits of the trade (in addition to the Part 4 TIOPA amount).

(2C) In subsections (2A) and (2B)—

“market value”, in relation to stock, is the value the stock would have been determined to have if it had been valued in accordance with sections 164 to 167, and

“Part 4 TIOPA amount” is the amount which, following the application of Part 4 of TIOPA 2010 in relation to the provision referred to in subsection (2), is brought into account in respect of that provision in calculating the profits of the trade.”

- (2) In section 173 of ITTOIA 2005 (valuation of trading stock on cessation), after subsection (2) (transfer pricing rules to take precedence) insert—

“(2A) Subsection (2B) applies if—

- (a) by virtue of subsection (2), no valuation of the stock under this Chapter is required, and
- (b) the market value of the stock is greater than the Part 4 TIOPA amount.

(2B) An amount equal to the market value of the stock less the Part 4 TIOPA amount is to be brought into account in calculating the profits of the trade (in addition to the Part 4 TIOPA amount).

(2C) In subsections (2A) and (2B)—

“market value”, in relation to stock, is the value the stock would have been determined to have if it had been valued in accordance with sections 175 to 178, and

“Part 4 TIOPA amount” is the amount which, following the application of Part 4 of TIOPA 2010 in relation to the provision referred to in subsection (2), is brought into account in respect of that provision in calculating the profits of the trade.”

- (3) The amendments made by this section apply in relation to a cessation of trade on or after 8 July 2015.

#### **42 Transfer of intangible assets not at arm’s length**

- (1) In section 846 of CTA 2009 (transfers of intangible assets not at arm’s length), after subsection (1) insert—

“(1A) Subsection (1B) applies in relation to the transfer of an intangible asset where—



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- (a) by virtue of subsection (1), section 845 does not apply, and
  - (b) the market value of the asset is greater than the Part 4 TIOPA amount.
- (1B) An amount equal to the market value of the asset less the Part 4 TIOPA amount is to be brought into account for the purposes of corporation tax in relation to the transfer (in addition to the Part 4 TIOPA amount).
- (1C) In subsections (1A) and (1B)—
- “market value”, in relation to an asset, has the meaning given in section 845(5);
  - “Part 4 TIOPA amount” means the amount which, following the application of Part 4 of TIOPA 2010 in relation to the consideration for the transfer, is brought into account in respect of the consideration for the purposes of corporation tax.”
- (2) The amendment made by this section applies in relation to a transfer which takes place on or after 8 July 2015, unless it takes place pursuant to an obligation, under a contract, that was unconditional before that date.
- (3) For the purposes of subsection (2), an obligation is “unconditional” if it may not be varied or extinguished by the exercise of a right (whether under the contract or otherwise).

### *Income tax and capital gains tax*

## **43 Carried interest**

- (1) In Part 3 of TCGA 1992 (individuals, partnerships, trusts and collective investment schemes etc), after section 103K insert—

### **“CHAPTER 5**

#### **CARRIED INTEREST**

##### **103KA Carried interest**

- (1) This section applies where—
- (a) an individual (“A”) performs investment management services directly or indirectly in respect of an investment scheme under arrangements involving at least one partnership, and
  - (b) carried interest arises to A under the arrangements.
- (2) If the carried interest arises to A in connection with the disposal of one or more assets of the partnership or partnerships—
- (a) a chargeable gain equal to the amount of the carried interest less any permitted deductions (and no other chargeable gain or loss) is to be treated as accruing to A on the disposal, and
  - (b) the chargeable gain is to be treated as accruing to A at the time the carried interest arises.
- (3) If the carried interest arises to A in circumstances other than those specified in subsection (2), a chargeable gain of an amount equal to the amount of the

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carried interest less any permitted deductions is to be treated as accruing to A at the time the carried interest arises.

- (4) Subsections (2) and (3) do not apply in relation to carried interest to the extent that—
- (a) it is brought into account in calculating the profits of a trade of A for the purposes of income tax for any tax year, or
  - (b) it constitutes a co-investment repayment or return.
- (5) For the purpose of subsections (2) and (3) “permitted deductions” in relation to A means such parts of the amounts specified in subsection (6) as is just and reasonable.
- (6) The amounts referred to in subsection (5) are—
- (a) the amount of any consideration in money given to the scheme by or on behalf of A wholly and exclusively for entering into the arrangements referred to in subsection (1)(a) (but not consideration in respect of co-investments),
  - (b) any amount that constituted earnings of A under Chapter 1 of Part 3 of ITEPA 2003 (earnings) in respect of A’s entering into those arrangements (but not any earnings in respect of co-investments or any amount of exempt income within the meaning of section 8 of that Act), and
  - (c) any amount which, by reason of events occurring no later than the time the carried interest arises, counts as income of A under the enactments referred to in section 119A(3) in respect of A’s participation in the arrangements referred to in subsection (1)(a) (but not an amount counting as income of A in respect of co-investments); and section 119A(5) applies for the purposes of this paragraph as it applies for the purposes of section 119A(4).

For the purposes of this Act no other deduction may be made from the amount of the carried interest referred to in subsection (2) or (3).

- (7) Where the carried interest arises to A by virtue of his or her acquisition of a right to it from another person for consideration given in money by or on behalf of A, the amount of the chargeable gain accruing to A under subsection (2) or (3) is, on the making of a claim by A under this subsection, to be regarded as reduced by the amount of the consideration.
- (8) In this section—
- “co-investment”, in relation to A, means an investment made directly or indirectly by A in the scheme, where there is no return on the investment which is not an arm’s length return within the meaning of section 809E(2) of ITA 2007;
  - “co-investment repayment or return” means a repayment in whole or in part of, or a return on, a co-investment;
  - “trade” includes profession or vocation.

### **103KB Carried interest: consideration on disposal etc of right**

- (1) For the purposes of section 103KA, consideration received or receivable by an individual for the disposal, variation, loss or cancellation of a right to carried

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interest is to be treated as carried interest arising to that individual at the time of the disposal, variation, loss or cancellation.

- (2) But subsection (1) does not apply if and to the extent that the consideration is a disguised fee arising to the individual for the purposes of section 809EZA of ITA 2007.

### **103KC Carried interest: foreign chargeable gains**

In a case where section 103KA applies, a chargeable gain accruing or treated as accruing to an individual in respect of carried interest is a foreign chargeable gain within the meaning of section 12 only to the extent that the individual performs the services referred to in section 103KA(1)(a) outside the United Kingdom.

### **103KD Carried interest: anti-avoidance**

In determining whether section 103KA 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 to any extent apply in relation to—

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

### **103KE Carried interest: avoidance of double taxation**

- (1) This section applies where—
- (a) capital gains tax is charged on an individual by virtue of section 103KA in respect of any carried interest, and
  - (b) Condition A or Condition B is met.
- (2) Condition A is that—
- (a) at any time, tax (whether income tax or another tax) charged on the individual in relation to the carried interest has been paid by the individual (and has not been repaid), and
  - (b) the amount on which tax is charged as specified in subsection (1)(a) is not a permissible deduction under section 103KA(6)(b) or (c).
- (3) Condition B is that at any time tax (whether income tax or another tax) charged on another person in relation to the carried interest has been paid by that other person (and has not been repaid).
- (4) 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 capital gains tax charged as mentioned in subsection (1)(a).
- (5) 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.
- (6) The value of any consequential adjustments made must not exceed the lesser of—
- (a) the capital gains tax charged as mentioned in subsection (1)(a), and

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(b) the tax charged as mentioned in subsection (2)(a) or (3).

(7) 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.

(8) Where—

- (a) an individual makes a claim under this section in respect of a year of assessment, and
- (b) apart from this subsection, an amount falls to be deducted under section 2(2)(b) from the total amount of chargeable gains accruing to the individual in that year,

the individual may elect that the amount to be so deducted be reduced by any amount not exceeding the amount on which tax is charged as specified in subsection (2)(a) or (3).

### **103KF Relief for external investors on disposal of partnership asset**

(1) If—

- (a) a chargeable gain accrues to an external investor in an investment scheme on the disposal of one or more partnership assets, and
  - (b) the external investor makes a claim for relief under this section,
- then subsection (2) applies in relation to the disposal.

(2) The amount of the chargeable gain is to be reduced by an amount equal to—

$$I - C$$

where—

- (a) I is an amount equal to such part of the sum invested in the fund by the external investor which on a just and reasonable basis is referable to the asset or assets disposed of, and
- (b) C is the amount deducted under section 38(1)(a) in respect of consideration given wholly and exclusively for the acquisition of the asset or assets.

### **103KG Meaning of “arise” in Chapter 5**

(1) For the purposes of this Chapter, carried interest “arises” to an individual (“A”) if, and only if, it arises to him or her for the purposes of Chapter 5E of Part 13 of ITA 2007.

(2) But section 809EZDB of ITA 2007 (sums arising to connected company or unconnected person) does not apply in relation to a sum of carried interest arising to—

- (a) a company connected with A, or
- (b) a person not connected with A,

where the sum is deferred carried interest in relation to A.

(3) In this section, “deferred carried interest”, in relation to A—

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- (a) means a sum of carried interest where the provision of the sum to A or a person connected with A is deferred (whether pending the meeting of any conditions (including conditions which may never be met) or otherwise), and
- (b) includes A's share (as determined on a just and reasonable basis) of any carried interest the provision of which to A and one or more other persons, taken together, has been deferred (whether pending the meeting of any conditions (including conditions which may never be met) or otherwise).

In this subsection, in a case where the sum referred to in subsection (2) arises to a company connected with A, the reference to a person connected with A does not include that company.

- (4) Where—
  - (a) section 809EZDB of ITA 2007 has been disapplied in relation to a sum of deferred carried interest by virtue of subsection (2),
  - (b) the sum ceases to be deferred carried interest in relation to A, and
  - (c) the sum does not in any event arise to A apart from this subsection,the sum is to be regarded as arising to A at the time it ceases to be deferred carried interest.
- (5) But subsection (4) does not apply if—
  - (a) none of the enjoyment conditions is met in relation to the sum when it ceases to be deferred carried interest, and
  - (b) there is no reasonable likelihood that any of those conditions will ever be met in relation to the sum.
- (6) The enjoyment conditions are—
  - (a) the sum, or part of the sum, is in fact so dealt with by any person as to be calculated at some time to enure for the benefit of A or a person connected with A;
  - (b) the sum's ceasing to be deferred carried interest in relation to A operates to increase the value to A or a person connected with A of any assets which—
    - (i) A or the connected person holds, or
    - (ii) are held for the benefit of A or the connected person;
  - (c) A or a person connected with A receives or is entitled to receive at any time any benefit provided or to be provided out of the sum or part of the sum;
  - (d) A or a person connected with A may become entitled to the beneficial enjoyment of the sum or part of the sum if one or more powers are exercised or successively exercised (and for these purposes it does not matter who may exercise the powers or whether they are exercisable with or without the consent of another person);
  - (e) A or a person connected with A is able in any manner to control directly or indirectly the application of the sum or part of the sum.

In this subsection, in a case where the sum referred to in subsection (2) arises to a company connected with A, references to a person connected with A do not include that company.

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- (7) In determining whether any of the enjoyment conditions is met in relation to a sum or part of a sum—
- (a) regard must be had to the substantial result and effect of all the relevant circumstances, and
  - (b) all benefits which may at any time accrue to a person as a result of the sum ceasing to be deferred carried interest in relation to A must be taken into account, irrespective of—
    - (i) the nature or form of the benefits, or
    - (ii) whether the person has legal or equitable rights in respect of the benefits.
- (8) The enjoyment condition in subsection (6)(b), (c) or (d) is to be treated as not met if it would be met only by reason of A holding shares or an interest in shares in a company.
- (9) The enjoyment condition in subsection (6)(a) or (e) is to be treated as not met if the sum referred to in subsection (2) arises to a company connected with A and—
- (a) the company is liable to pay corporation tax in respect of its profits and the sum is included in the computation of those profits, or
  - (b) paragraph (a) does not apply but—
    - (i) the company is a CFC and the exemption in Chapter 14 of Part 9A of TIOPA 2010 applies for the accounting period in which the sum arises, or
    - (ii) the company is not a CFC but, if it were, that exemption would apply for that period.
- In this subsection “CFC” has the same meaning as in Part 9A of TIOPA 2010.
- (10) But subsections (8) and (9) do not apply if the sum referred to in subsection (2) arises to the company referred to in subsection (2)(a) or the person referred to in subsection (2)(b) as part of arrangements where—
- (a) it is reasonable to assume that in the absence of the arrangements the sum or part of the sum would have arisen to A or an individual connected with A, and
  - (b) it is reasonable to assume that the arrangements have as their main purpose, or one of their main purposes, the avoidance of a liability to pay income tax, capital gains tax, inheritance tax or corporation tax.
- (11) The condition in subsection (10)(b) is to be regarded as met in a case where the sum is applied directly or indirectly as an investment in a collective investment scheme.
- (12) Subsection (2) does not apply in relation to any sum in relation to which the condition in subsection (8)(b) of section 809EZDB is met by virtue of subsection (9) of that section.
- (13) Subsection (2) also does not apply if—
- (a) it is reasonable to assume that the deferral referred to in subsection (3) (a) or (b) is not the effect of genuine commercial arrangements, or
  - (b) that deferral is the effect of such arrangements but it is reasonable to assume that the arrangements have as their main purpose, or one of

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their main purposes, the avoidance of a liability to pay income tax, capital gains tax, corporation tax or inheritance tax.

- (14) In subsection (13), “genuine commercial arrangements” means arrangements involving A (alone or jointly with others performing investment management services) and external investors in the investment scheme.
- (15) Section 993 of ITA 2007 (meaning of “connected”) applies for the purposes of this section but as if—
- (a) subsection (4) of that section were omitted, and
  - (b) partners in a partnership in which A is also a partner were not “associates” of A for the purposes of sections 450 and 451 of CTA 2010 (“control”).

### **103KH Interpretation of Chapter 5**

- (1) In this Chapter—

“arrangements” has the same meaning as in Chapter 5E of Part 13 of ITA 2007 (see section 809EZE of that Act);

“carried interest”, in relation to arrangements referred to in section 103KA(1)(a), has the same meaning as in section 809EZH of ITA 2007 (see sections 809EZE and 809EZH of that Act);

“investment scheme”, “investment management services” and “external investor” have the same meanings as in Chapter 5E of Part 13 of ITA 2007 (see sections 809EZA(6) and 809EZE of that Act).”

- (2) The amendment made by subsection (1) has effect in relation to carried interest arising on or after 8 July 2015 under any arrangements, unless the carried interest arises in connection with the disposal of an asset or assets of a partnership or partnerships before that date.
- (3) But section 103KB(1) of TCGA 1992 (as inserted by subsection (1)) does not have effect in relation to a variation of a right to carried interest occurring on or after 8 July 2015 and before 22 October 2015.
- (4) And section 103KG(2) to (15) of TCGA 1992 (as inserted by subsection (1)) has effect in relation to carried interest arising on or after 22 October 2015 under any arrangements, unless the carried interest arises in connection with the disposal of an asset or assets of a partnership or partnerships before that date.
- (5) In subsections (2) to (4), “arise”, “arrangements” and “carried interest” have the same meanings as in Chapter 5 of Part 3 of TCGA 1992 (as inserted by subsection (1) of this section).

## **44 Disguised investment management fees**

- (1) In section 809EZH of ITA 2007 (disguised investment management fees: meaning of “management fee”), after subsection (2) insert—

“(2A) For the purposes of subsection (2)(b), the return on the investment is reasonably comparable to the return to external investors on the investments referred to in subsection (2)(a) if (and only if)—

- (a) the rate of return on the investment is reasonably comparable to the rate of return to external investors on those investments, and

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- (b) any other factors relevant to determining the size of the return on the investment are reasonably comparable to the factors determining the size of the return to external investors on those investments.”
- (2) In section 809EZG of ITA 2007 (avoidance of double taxation), in subsection (1)(b), after “the individual” insert “or another person”.
- (3) The amendments made by this section have effect in relation to sums arising on or after 8 July 2015 (whenever the arrangements under which the sums arise were made).
- (4) In subsection (3), “arise” has the same meaning as it has for the purposes of Chapter 5E of Part 13 of ITA 2007.

#### **45 Carried interest and disguised investment management fees: “arise”**

- (1) In ITA 2007, after section 809EZD insert—

##### **“809EZDA Sums arising to connected persons other than companies**

- (1) This section applies in relation to an individual (“A”) if—
  - (a) a sum arises to a person (“B”) who is connected with A,
  - (b) B is not a company,
  - (c) income tax is not charged on B in respect of the sum by virtue of this Chapter,
  - (d) capital gains tax is not charged on B in respect of the sum by virtue of Chapter 5 of Part 3 of TCGA 1992, and
  - (e) the sum does not arise to A apart from this section.
- (2) The sum referred to in subsection (1)(a) arises to A for the purposes of this Chapter.
- (3) Where a sum arises to A by virtue of this section, it arises to A at the time the sum referred to in subsection (1)(a) arises to B.
- (4) Section 993 (meaning of “connected”) applies for the purposes of this section, but as if—
  - (a) subsection (4) of that section were omitted, and
  - (b) partners in a partnership in which A is also a partner were not “associates” of A for the purposes of sections 450 and 451 of CTA 2010 (“control”).

##### **809EZDB Sums arising to connected company or unconnected person**

- (1) This section applies in relation to an individual (“A”) if—
  - (a) a sum arises to—
    - (i) a company connected with A, or
    - (ii) a person not connected with A,
  - (b) any of the enjoyment conditions is met, and
  - (c) the sum does not arise to A apart from this section.
- (2) The enjoyment conditions are—



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- (a) the sum, or part of the sum, is in fact so dealt with by any person as to be calculated at some time to enure for the benefit of A or a person connected with A;
- (b) the arising of the sum operates to increase the value to A or a person connected with A of any assets which—
  - (i) A or the connected person holds, or
  - (ii) are held for the benefit of A or the connected person;
- (c) A or a person connected with A receives or is entitled to receive at any time any benefit provided or to be provided out of the sum or part of the sum;
- (d) A or a person connected with A may become entitled to the beneficial enjoyment of the sum or part of the sum if one or more powers are exercised or successively exercised (and for these purposes it does not matter who may exercise the powers or whether they are exercisable with or without the consent of another person);
- (e) A or a person connected with A is able in any manner to control directly or indirectly the application of the sum or part of the sum.

In this subsection, in a case where the sum referred to in subsection (1)(a) arises to a company connected with A, references to a person connected with A do not include that company.

- (3) There arises to A for the purposes of this Chapter—
  - (a) the sum referred to in subsection (1)(a), or
  - (b) if the enjoyment condition in subsection (2)(a), (c), (d) or (e) is met in relation to part of the sum, that part of that sum, or
  - (c) if the enjoyment condition in subsection (2)(b) is met, such part of that sum as is equal to the amount by which the value of the assets referred to in that condition is increased.
- (4) Where a sum (or part of a sum) arises to A by virtue of this section, it arises to A at the time it arises to the person referred to in subsection (1)(a)(i) or (ii) (whether the enjoyment condition was met at that time or at a later date).
- (5) In determining whether any of the enjoyment conditions is met in relation to a sum or part of a sum—
  - (a) regard must be had to the substantial result and effect of all the relevant circumstances, and
  - (b) all benefits which may at any time accrue to a person as a result of the sum arising as specified in subsection (1)(a) must be taken into account, irrespective of—
    - (i) the nature or form of the benefits, or
    - (ii) whether the person has legal or equitable rights in respect of the benefits.
- (6) The enjoyment condition in subsection (2)(b), (c) or (d) is to be treated as not met if it would be met only by reason of A holding shares or an interest in shares in a company.
- (7) The enjoyment condition in subsection (2)(a) or (e) is to be treated as not met if the sum referred to in subsection (1)(a) arises to a company connected with A and—

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- (a) the company is liable to pay corporation tax in respect of its profits and the sum is included in the computation of those profits, or
- (b) paragraph (a) does not apply but—
  - (i) the company is a CFC and the exemption in Chapter 14 of Part 9A of TIOPA 2010 applies for the accounting period in which the sum arises, or
  - (ii) the company is not a CFC but, if it were, that exemption would apply for that period.

In this subsection “CFC” has the same meaning as in Part 9A of TIOPA 2010.

- (8) But subsections (6) and (7) do not apply if the sum referred to in subsection (1) (a) arises to the company referred to in subsection (1)(a)(i) or the person referred to in subsection (1)(a)(ii) as part of arrangements where—
  - (a) it is reasonable to assume that in the absence of the arrangements the sum or part of the sum would have arisen to A or an individual connected with A, and
  - (b) it is reasonable to assume that the arrangements have as their main purpose, or one of their main purposes, the avoidance of a liability to pay income tax, capital gains tax, inheritance tax or corporation tax.
- (9) The condition in subsection (8)(b) is to be regarded as met in a case where the sum is applied directly or indirectly as an investment in a collective investment scheme.
- (10) Section 993 (meaning of “connected”) applies for the purposes of this section, but as if—
  - (a) subsection (4) of that section were omitted, and
  - (b) partners in a partnership in which A is also a partner were not “associates” of A for the purposes of sections 450 and 451 of CTA 2010 (“control”).”

(2) In ITA 2007, in section 809EZA(3)(c), omit “directly or indirectly”.

(3) The amendments made by this section have effect in relation to—

- (a) sums other than carried interest arising on or after 22 October 2015, (whenever the arrangements under which the sums arise were made), and
- (b) carried interest arising on or after 22 October 2015 under any arrangements, unless the carried interest arises in connection with the disposal of an asset or assets of a partnership or partnerships before that date.

(4) In subsection (3), “arise”, “arrangements” and “carried interest” have the same meanings as in Chapter 5E of Part 13 of ITA 2007.

## PART 5

### EXCISE DUTIES AND OTHER TAXES

#### *Vehicle excise duty*

#### **46 Vehicle excise duty**

- (1) VERA 1994 is amended as follows.
- (2) In Schedule 1 (annual rates of duty)—
  - (a) in the heading to Part 1A (light passenger vehicles: graduated rates of duty) after “VEHICLES” insert “REGISTERED BEFORE 1 APRIL 2017”;
  - (b) in paragraph 1A (vehicles to which Part 1A applies) in sub-paragraph (1)(a) for “on or after 1 March 2001” substitute “, after 28 February 2001 but before 1 April 2017”;
  - (c) after Part 1A insert—

#### **“PART 1AA**

#### LIGHT PASSENGER VEHICLES REGISTERED ON OR AFTER 1 APRIL 2017

#### **Vehicles to which this Part applies etc**

- 1GA (1) This Part of this Schedule applies to a vehicle which—
- (a) is first registered, under this Act or under the law of a country or territory outside the United Kingdom, on or after 1 April 2017, and
  - (b) is so registered on the basis of an EU certificate of conformity or UK approval certificate that—
    - (i) identifies the vehicle as having been approved as a light passenger vehicle, and
    - (ii) specifies a CO<sub>2</sub> emissions figure in terms of grams per kilometre driven.
- (2) In sub-paragraph (1)(b)(i) a “light passenger vehicle” has the meaning given by paragraph 1A(2).
- (3) The following provisions of Part 1A of this Schedule apply for the purposes of this Part of this Schedule as they apply for the purposes of that Part—
- (a) paragraph 1A(3) and (4) (meaning of “the applicable CO<sub>2</sub> emissions figure”);
  - (b) paragraph 1A(5) (effect of subsequent modifications);
  - (c) paragraphs 1C and 1D (the reduced rate and the standard rate);
  - (d) paragraph 1G (meaning of “EU certificate of conformity” and “UK approval certificate”).

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### **Exemption from paying duty on first vehicle licence for certain vehicles**

- 1GB (1) No vehicle excise duty shall be paid on the first vehicle licence for a vehicle to which this Part of this Schedule applies if the vehicle is within sub-paragraph (2) or (3).
- (2) A vehicle is within this sub-paragraph if—
- (a) its applicable CO<sub>2</sub> emissions figure is 0 g/km, and
  - (b) it is not an exempt vehicle by reason of paragraph 25(4) of Schedule 2 (because of sub-paragraph (5) of that paragraph).
- (3) A vehicle is within this sub-paragraph if—
- (a) its applicable CO<sub>2</sub> emissions figure exceeds 0 g/km but does not exceed 50 g/km, and
  - (b) condition A, B or C in paragraph 1C is met.

### **Graduated rates of duty payable on first vehicle licence**

- 1GC For the purpose of determining the rate at which vehicle excise duty is to be paid on the first vehicle licence for a vehicle to which this Part of this Schedule applies, the annual rate of duty applicable to the vehicle shall be determined in accordance with the following table by reference to—
- (a) the applicable CO<sub>2</sub> emissions figure, and
  - (b) whether the vehicle qualifies for the reduced rate of duty or is liable to the standard rate of duty.

<i>CO<sub>2</sub> emissions figure</i>		<i>Rate</i>	
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Exceeding g/km</i>	<i>Not exceeding g/km</i>	<i>Reduced rate</i>	<i>Standard rate</i>
0	50	—	10
50	75	15	25
75	90	90	100
90	100	110	120
100	110	130	140
110	130	150	160
130	150	190	200
150	170	490	500
170	190	790	800
190	225	1190	1200
225	255	1690	1700
255	—	1990	2000

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### **Rates of duty payable on any other vehicle licence for vehicle**

- 1GD (1) For the purpose of determining the rate at which vehicle excise duty is to be paid on any other vehicle licence for a vehicle to which this Part of this Schedule applies, the annual rate of vehicle excise applicable to the vehicle is—
- (a) the reduced rate of £130, if the vehicle qualifies for the reduced rate, or
  - (b) the standard rate of £140, if the vehicle is liable to the standard rate.
- (2) But sub-paragraph (1) does not apply where paragraph 1GE(2) or (4) applies.

### **Higher rates of duty: vehicles with a price exceeding £40,000**

- 1GE (1) Sub-paragraph (2) applies for the purpose of determining the rate at which vehicle excise duty is to be paid on any other vehicle licence for a vehicle to which this Part applies if—
- (a) the price of the vehicle exceeds £40,000,
  - (b) the vehicle was first registered, under this Act or under the law of a country or territory outside the United Kingdom, less than six years before the date on which the licence has effect, and
  - (c) the vehicle's applicable CO<sub>2</sub> emissions figure exceeds 0 g/km.
- (2) The annual rate of vehicle excise duty applicable to the vehicle is—
- (a) £440, if the vehicle qualifies for the reduced rate, or
  - (b) £450, if the vehicle is liable to the standard rate.
- (3) Sub-paragraph (4) applies for the purpose of determining the rate at which vehicle excise duty is to be paid on any other vehicle licence for a vehicle to which this Part applies if—
- (a) the price of the vehicle exceeds £40,000;
  - (b) the vehicle was first registered, under this Act or under the law of a country or territory outside the United Kingdom, less than six years before the date on which the licence has effect, and
  - (c) the vehicle's applicable CO<sub>2</sub> emissions figure is 0 g/km.
- (4) The annual rate of vehicle excise duty applicable to the vehicle is £310.

### **Calculating the price of a vehicle**

- 1GF (1) For the purposes of paragraph 1GE(1)(a) and (3)(a) the price of a vehicle is—
- (a) in a case where the vehicle has a list price, the sum of—
    - (i) that price, and

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- (ii) the price of any non-standard accessory which is attached to the vehicle when it is first registered under this Act, or
  - (b) in a case where the vehicle does not have a list price, its notional price.
- (2) The reference in sub-paragraph (1)(a)(ii) to the price of a non-standard accessory is to—
- (a) its list price, if it has one, or
  - (b) its notional price, if it has no list price.
- (3) Sections 123, 124, 125 and 127 to 130 of the Income Tax (Earnings and Pensions) Act 2003 apply for the purpose of defining terms used in this paragraph as they apply for the purpose of defining terms used in Chapter 6 of Part 3 of that Act, but with the modifications specified in sub-paragraph (4).
- (4) The modifications are as follows—
- (a) references to a car are to be read as references to a vehicle;
  - (b) references to relevant taxes are to be read as not including references to vehicle excise duty;
  - (c) in section 124(1)(f) for the words from “qualifying” to the end substitute “accessories attached to the vehicle when it was first registered under VERA 1994”;
  - (d) in section 125 omit subsection (1) and (2)(a);
  - (e) in section 127—
    - (i) in subsection (1) omit “initial extra”;
    - (ii) omit subsection (2).”
- (3) In Schedule 2 (exempt vehicles)—
- (a) in paragraph 20G (electrically propelled vehicles)—
    - (i) the existing provision becomes sub-paragraph (1);
    - (ii) after that sub-paragraph insert—
      - “(2) But a vehicle is not an exempt vehicle by reason of this paragraph if—
      - (a) it is a vehicle to which Part 1AA of Schedule 1 applies (light passenger vehicles registered on or after 1 April 2017), and
      - (b) its price exceeds £40,000.
    - (3) Paragraph 1GF of Schedule 1 (calculating the price of a vehicle) applies for the purposes of sub-paragraph (2)(b).”;
  - (b) in paragraph 25 (light passenger vehicles with low CO<sub>2</sub> emissions) after sub-paragraph (3) insert—
    - “(4) A vehicle is an exempt vehicle if—
    - (a) it is a vehicle to which Part 1AA of Schedule 1 applies, and
    - (b) it has an applicable CO<sub>2</sub> emissions figure (as defined in paragraph 1A(3) and (4) of that Schedule) of 0 g/km.

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- (5) But a vehicle is not an exempt vehicle by reason of sub-paragraph (4) if—
  - (a) its price exceeds £40,000, and
  - (b) less than six years have passed since it was first registered (whether under this Act or under the law of a country or territory outside the United Kingdom).
- (6) Paragraph 1GF of Schedule 1 (calculating the price of a vehicle) applies for the purposes of sub-paragraph (5)(a).”

#### *Insurance premium tax*

### **47 Insurance premium tax: standard rate**

- (1) In section 51(2)(b) of FA 1994 (standard rate of insurance premium tax), for “6 per cent” substitute “9.5 per cent”.
- (2) The amendment made by subsection (1) has effect in relation to a premium falling to be regarded for the purposes of Part 3 of FA 1994 as received under a taxable insurance contract by an insurer on or after 1 November 2015.
- (3) The amendment made by subsection (1) does not have effect in relation to a premium which—
  - (a) is in respect of a contract made before 1 November 2015, and
  - (b) falls to be regarded for the purposes of Part 3 of FA 1994 as received under the contract by the insurer before 1 March 2016 by virtue of regulations under section 68 of that Act (special accounting schemes).
- (4) Subsection (3) does not apply in relation to a premium which—
  - (a) is an additional premium under a contract,
  - (b) falls to be regarded for the purposes of Part 3 of FA 1994 as received under the contract by the insurer on or after 1 November 2015 by virtue of regulations under section 68 of that Act, and
  - (c) is in respect of a risk which was not covered by the contract before that date.
- (5) In the application of sections 67A to 67C of FA 1994 (announced increase in rate) in relation to the increase made by this section—
  - (a) the announcement for the purposes of sections 67A(1) and 67B(1) is to be taken to have been made on 8 July 2015,
  - (b) the date of the change is 1 November 2015, and
  - (c) the concessionary date is 1 March 2016.

#### *Aggregates levy*

### **48 Aggregates levy: restoration of exemptions**

- (1) The provisions of Part 2 of FA 2001 (aggregates levy) that were amended or repealed by section 94 of FA 2014 (removal of certain exemptions with effect from 1 April 2014) have effect, and are to be treated as having had effect at all times on or after 1 April 2014, as if the amendments and repeals made by that section had not been made.

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- (2) Accordingly, sections 94 and 95 of FA 2014 are repealed.
- (3) Part 2 of FA 2001, as amended by subsection (1), is further amended in accordance with subsections (4) and (5).
- (4) In section 17 (meaning of “aggregate” and “taxable aggregate”), in each of subsections (3)(f) and (4)(a)—
  - (a) after “lignite,” insert “or”, and
  - (b) omit “or shale”.
- (5) In section 18(2) (meaning of “exempt process”), after paragraph (c) insert—
  - “(ca) in the case of aggregate consisting of shale, any process consisting of a use of the shale that—
    - (i) is not a use of it as material or support in the construction or improvement of any structure, and
    - (ii) is not mixing it with anything as part of the process of producing mortar, concrete, tarmacadam, coated roadstone or any similar construction material.”
- (6) The repeal of section 94 of FA 2014 is to be treated as having come into force on 1 August 2015, and the amendments made by subsections (3) to (5) are to be treated as having come into force on 1 April 2014.

#### *Climate change levy*

#### **49 CCL: removal of exemption for electricity from renewable sources**

In paragraph 19 of Schedule 6 to FA 2000 (climate change levy: exemption for electricity from renewable sources), in sub-paragraph (3), before paragraph (a) insert—

“(za) it is generated before 1 August 2015,”.

### **PART 6**

#### ADMINISTRATION AND ENFORCEMENT

#### **50 International agreements to improve compliance: client notification**

- (1) Section 222 of FA 2013 (international agreements to improve tax compliance) is amended as follows.
- (2) In subsection (2), in paragraph (c), after “purposes” (but before the closing bracket) insert “and client notification obligations”.
- (3) In subsection (2), after paragraph (c) insert—
  - “(ca) impose client notification obligations on specified relevant persons;”.
- (4) After subsection (2) insert—
  - “(2A) For the purposes of subsection (2)(c) and (ca) a “client notification obligation” is an obligation to give specified information to—
    - (a) clients, or



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- (b) specified clients.
- (2B) In subsection (2A) the reference to an obligation to give specified information includes—
- (a) any obligation to give the information—
    - (i) in a specified form or manner;
    - (ii) at a specified time or specified times;
  - (b) in the case of a relevant financial entity or relevant person which is a body corporate, an obligation to require a person of which it has control to give the information.”
- (5) In subsection (4), at the appropriate places insert—
- ““client” includes—
    - (a) any client or customer, and
    - (b) any former client or customer;”;
  - ““control” is to be construed in accordance with section 1124 of CTA 2010;”;
  - ““relevant person” means—
    - (a) a tax adviser (as defined by section 272(5) of FA 2014), and
    - (b) any other person who in the course of business—
      - (i) gives advice to another person about that person’s financial or legal affairs, or
      - (ii) provides other financial or legal services to another person;”.

## **51 Enforcement by deduction from accounts**

- (1) Schedule 8 contains provision about the enforcement of debts owed to the Commissioners for Her Majesty’s Revenue and Customs by making deductions from accounts held with deposit-takers.
- (2) The Treasury may, by regulations made by statutory instrument, make consequential, incidental or supplementary provision in connection with any provision made by that Schedule.
- (3) Regulations under subsection (2) may amend, repeal or revoke any enactment (whenever passed or made).
- (4) “Enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.
- (5) A statutory instrument containing (whether alone or with other provision) provision amending or repealing an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (6) Any other statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of the House of Commons.

## **52 Rate of interest applicable to judgment debts etc in taxation matters**

- (1) This section applies if a sum payable to or by the Commissioners under a judgment or order given or made in any court proceedings relating to a taxation matter (a “tax-related judgment debt”) carries interest as a result of a relevant enactment.

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- (2) The “relevant enactments” are—
- (a) section 17 of the Judgments Act 1838 (judgment debts to carry interest), and
  - (b) any order under section 74 of the County Courts Act 1984 (interest on judgment debts etc).
- (3) The relevant enactment is to have effect in relation to the tax-related judgment debt as if for the rate specified in section 17(1) of the Judgments Act 1838 and any other rate specified in an order under section 74 of the County Courts Act 1984 there were substituted—
- (a) in the case of a sum payable to the Commissioners, the late payment interest rate provided for in regulations made by the Treasury under section 103(1) of FA 2009, and
  - (b) in the case of a sum payable by the Commissioners, the special repayment rate.
- (4) Subsection (3) does not affect any power of the court under the relevant enactment to prevent any sum from carrying interest or to provide for a rate of interest which is lower than (and incapable of exceeding) that for which the subsection provides.
- (5) If section 44A of the Administration of Justice Act 1970 (interest on judgment debts expressed otherwise than in sterling), or any corresponding provision made under section 74 of the County Courts Act 1984 in relation to the county court, applies to a tax-related judgment debt—
- (a) subsection (3) does not apply, but
  - (b) the court may not specify in an order under section 44A of the Administration of Justice Act 1970, or under any provision corresponding to that section which has effect under section 74 of the County Courts Act 1984, an interest rate which exceeds (or is capable of exceeding)—
    - (i) in the case of a sum payable to the Commissioners, the rate mentioned in subsection (3)(a), or
    - (ii) in the case of a sum payable by the Commissioners, the special repayment rate.
- (6) The “special repayment rate” is the percentage per annum given by the formula—
- $$\mathbf{BR + 2}$$
- where BR is the official Bank rate determined by the Bank of England Monetary Policy Committee at the operative meeting.
- (7) “The operative meeting”, in relation to the special repayment rate applicable in respect of any day, means the most recent meeting of the Bank of England Monetary Policy Committee apart from any meeting later than the 13th working day before that day.
- (8) The Treasury may by regulations made by statutory instrument—
- (a) repeal subsections (6) and (7), and
  - (b) provide that the “special repayment rate” for the purposes of this section is the rate provided for in the regulations.
- (9) Regulations under subsection (8)—
- (a) may make different provision for different purposes,
  - (b) may either themselves specify a rate of interest or make provision for such a rate to be determined (and to change from time to time) by reference to such rate, or the average of such rates, as may be referred to in the regulations,

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- (c) may provide for rates to be reduced below, or increased above, what they would otherwise be by specified amounts or by reference to specified formulae,
  - (d) may provide for rates arrived at by reference to averages to be rounded up or down,
  - (e) may provide for circumstances in which the alteration of a rate of interest is or is not to take place, and
  - (f) may provide that alterations of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations (“the effective date”) regardless of—
    - (i) the date of the judgment or order in question, and
    - (ii) whether interest begins to run on or after the effective date, or began to run before that date.
- (10) A statutory instrument containing regulations under subsection (8) is subject to annulment in pursuance of a resolution of the House of Commons.
- (11) To the extent that a tax-related judgment debt consists of an award of costs to or against the Commissioners, the reference in section 24(2) of the Crown Proceedings Act 1947 (which relates to interest on costs awarded to or against the Crown) to the rate at which interest is payable upon judgment debts due from or to the Crown is to be read as a reference to the rate at which interest is payable upon tax-related judgment debts.
- (12) This section has effect in relation to interest for periods beginning on or after 8 July 2015, regardless of—
  - (a) the date of the judgment or order in question, and
  - (b) whether interest begins to run on or after 8 July 2015, or began to run before that date.
- (13) Subsection (14) applies where, at any time during the period beginning with 8 July 2015 and ending immediately before the day on which this Act is passed (“the relevant period”)—
  - (a) a payment is made in satisfaction of a tax-related judgment debt, and
  - (b) the payment includes interest under a relevant enactment in respect of any part of the relevant period.
- (14) The court by which the judgment or order in question was given or made must, on an application made to it under this subsection by the person who made the payment, order the repayment of the amount by which the interest paid under the relevant enactment in respect of days falling within the relevant period exceeds the interest payable under the relevant enactment in respect of those days in accordance with the provisions of this section.
- (15) In this section—
  - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “taxation matter” means anything, other than national insurance contributions, the collection and management of which is the responsibility of the Commissioners (or was the responsibility of the Commissioners of Inland Revenue or Commissioners of Customs and Excise);
  - “working day” means any day other than a non-business day as defined in section 92 of the Bills of Exchange Act 1882.

(16) This section extends to England and Wales only.

## PART 7

### FINAL

#### 53 Interpretation

In this Act—

- “CAA 2001” means the Capital Allowances Act 2001,
- “CTA 2009” means the Corporation Tax Act 2009,
- “CTA 2010” means the Corporation Tax Act 2010,
- “FA”, followed by a year, means the Finance Act of that year,
- “IHTA 1984” means the Inheritance Tax Act 1984,
- “ITA 2007” means the Income Tax Act 2007,
- “ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003,
- “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005,
- “TCGA 1992” means the Taxation of Chargeable Gains Act 1992,
- “TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010,
- “TMA 1970” means the Taxes Management Act 1970,
- “VATA 1994” means the Value Added Tax Act 1994, and
- “VERA 1994” means the Vehicle Excise and Registration Act 1994.

#### 54 Short title

This Act may be cited as the Finance (No. 2) Act 2015.