

## SCHEDULES

### SCHEDULE 5

#### CORPORATE INTEREST RESTRICTION

#### PART 4

##### COMMENCEMENT AND TRANSITIONAL PROVISION

*Commencement: new Part 10 of TIOPA*

- 25 (1) The corporate interest restriction amendments have effect in relation to periods of account of worldwide groups that begin on or after 1 April 2017.
- (2) In this paragraph “the corporate interest restriction amendments” means the amendments made by Parts 1 to 3 of this Schedule, apart from those made by paragraph 11 (repeal of Part 7 of TIOPA 2010).
- (3) Any regulations made by the Treasury or Commissioners under Part 10 of TIOPA 2010 before 1 April 2018 may have effect in relation to periods of account of worldwide groups that begin on or after 1 April 2017.
- (4) Sub-paragraphs (6) to (11) apply if—
- (a) financial statements of a worldwide group are drawn up by or on behalf of the ultimate parent in respect of a period that begins before, and ends on or after, 1 April 2017,
  - (b) the period in respect of which the financial statements are drawn up is 18 months or less, and
  - (c) the financial statements are drawn up before the end of the period of 30 months beginning with the beginning of the period in respect of which they are drawn up.
- (5) In sub-paragraphs (6) to (11)—
- (a) “the group’s actual financial statements” means the financial statements mentioned in sub-paragraph (4);
  - (b) “the straddling period of account” means the period in respect of which those financial statements are drawn up.
- (6) For the purposes of Part 10 of TIOPA 2010, the group’s actual financial statements are treated as not having been drawn up.
- (7) Instead, financial statements of the worldwide group are treated for those purposes as having been drawn up in respect of each of the following periods—
- (a) the period beginning at the time the straddling period of account begins and ending with 31 March 2017, and
  - (b) the period beginning with 1 April 2017 and ending at the time the straddling period of account ends.

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- (8) Where condition C or D in section 481 of TIOPA 2010 is met in relation to the group’s actual financial statements, the financial statements treated as drawn up by sub-paragraph (7) are treated as drawn up in accordance with the generally accepted accounting principles and practice with which the group’s actual financial statements were drawn up.
- (9) Where neither of those conditions is met in relation to the group’s actual financial statements, the financial statements treated as drawn up by sub-paragraph (7) are IAS financial statements.
- (10) Where, for the purpose of determining amounts recognised in the financial statements treated as drawn up by sub-paragraph (7), it is expedient to apportion any amount that is recognised in the group’s actual financial statements, the apportionment is to be made in accordance with section 1172 of CTA 2010 (apportionment on a time basis).
- (11) But if it appears that apportionment in accordance with that section would work unjustly or unreasonably, the apportionment is to be made on a just and reasonable basis.
- (12) Expressions used in this paragraph and in Part 10 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

*Commencement: repeal of Part 7 of TIOPA 2010*

- 26 (1) The repeals and revocations made by paragraph 11 of this Schedule have effect in relation to periods of account of the worldwide group that begin on or after 1 April 2017.
- (2) Sub-paragraphs (4) to (10) apply if financial statements of the worldwide group are drawn up in respect of a period that begins before, and ends on or after, 1 April 2017.
- (3) In sub-paragraphs (4) to (10)—
- (a) “the group’s actual financial statements” means the financial statements mentioned in sub-paragraph (2);
  - (b) “the straddling period of account” means the period in respect of which those financial statements are drawn up.
- (4) For the purposes of Part 7 of TIOPA 2010, the group’s actual financial statements are treated as not having been drawn up.
- (5) Instead, financial statements of the worldwide group are treated for those purposes as having been drawn up in respect of each of the following periods—
- (a) the period beginning at the time the straddling period of account begins and ending with 31 March 2017, and
  - (b) the period beginning with 1 April 2017 and ending at the time the straddling period of account ends.
- (6) Where condition B, C or D in regulation 2 of the Acceptable Financial Statements Regulations is met in relation to the group’s actual financial statements, the financial statements treated as drawn up by sub-paragraph (5) are treated as drawn up in accordance with the generally accepted accounting principles and practice with which the group’s actual financial statements were drawn up.

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- (7) Where none of those conditions is met in relation to the group's actual financial statements, the financial statements treated as drawn up by sub-paragraph (5) are IAS financial statements.
- (8) Where, for the purpose of determining amounts recognised in the financial statements treated as drawn up by sub-paragraph (5), it is expedient to apportion any amount that is recognised in the group's actual financial statements, the apportionment is to be made in accordance with section 1172 of CTA 2010 (apportionment on a time basis).
- (9) But if it appears that apportionment in accordance with that section would work unjustly or unreasonably, the apportionment is to be made on a just and reasonable basis.
- (10) In sub-paragraph (6), “the Acceptable Financial Statements Regulations” means the Corporation Tax (Tax Treatment of Financing Costs and Income) (Acceptable Financial Statements) Regulations 2009 (S.I. 2009/3217).
- (11) Expressions used in this paragraph and in Part 7 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

*Time limits for elections relating to financial statements of a worldwide group*

- 27
- (1) In section 484 of TIOPA 2010, subsection (5) (which requires the date specified in an election under subsection (3) of that section to be on or after the day on which the election is made) does not apply in relation to an election made on or before 31 March 2018.
  - (2) In section 486 of that Act, subsection (5)(a) (which requires an election under that section to be made before the end-day of the new period of account) does not apply in relation to an election made on or before 31 March 2018.

*Time limit relating to appointment of reporting company or filing interest restriction return*

- 28
- (1) Paragraph 1(4)(a) of Schedule 7A to TIOPA 2010 (notice of the appointment of reporting company ineffective if given outside the period specified in that provision) does not apply to a notice that—
    - (a) is given on or before 31 March 2018, and
    - (b) would otherwise be of no effect by reason only of the expiry of the period specified in that provision.
  - (2) Paragraph 2(4)(a) of that Schedule (notice of the revocation of the appointment of reporting company ineffective if given outside the period specified in that provision) does not apply to a notice that—
    - (a) is given on or before 31 March 2018, and
    - (b) would otherwise be of no effect by reason only of the expiry of the period specified in that provision.
  - (3) Where the date determined under paragraph 7(5) of that Schedule as the filing date in relation to a period of account of a worldwide group would (apart from this sub-paragraph) be a date before 30 June 2018, that provision has effect as if it provided for the filing date in relation to the period to be 30 June 2018.

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*Change of accounting policy*

- 29 (1) For the purposes of Part 10 of TIOPA 2010 a debit or credit to which this paragraph applies is to be ignored.
- (2) This paragraph applies to a debit or credit if—
- (a) it is brought into account under the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (S.I. 2004/3271), and
  - (b) the later period, in relation to the change of accounting policy to which the debit or credit relates, begins before 1 April 2017.
- (3) In sub-paragraph (2) “the later period” has the same meaning as in the regulations mentioned in that sub-paragraph.

*Adjustments under Schedule 7 to F(No.2)A 2015*

- 30 (1) For the purposes of Part 10 of TIOPA 2010 a debit or credit to which this paragraph applies is to be ignored.
- (2) This paragraph applies to a debit or credit if—
- (a) it is brought into account for the purposes of Part 5 of CTA 2009 by virtue of paragraphs 115 and 116 of Schedule 7 to F(No.2)A 2015 (transitional adjustments relating to loan relationships), or
  - (b) it is brought into account for the purposes of Part 7 of CTA 2009 by virtue of paragraphs 120 and 121 of that Schedule (transitional adjustments relating to derivative contracts).

*Power to make elections under Disregard Regulations for pre-1 April 2020 derivative contracts*

- 31 (1) A company which is a UK group company of a worldwide group on 1 April 2017 may elect for the Disregard Regulations to have effect as if—
- (a) the company had made an election (“the disregard election”) under regulation 6A of those Regulations for the purposes of regulation 6(1)(a) of those Regulations,
  - (b) the disregard election applied to regulations 7, 8 and 9 of those Regulations, and
  - (c) the disregard election had effect in relation to derivative contracts entered into by the company before 1 April 2020.
- (2) The election has effect for the calculation under Part 10 of TIOPA 2010 of—
- (a) the tax-interest expense amounts and tax-interest income amounts of the company and any relevant transferee company, and
  - (b) the adjusted corporation tax earnings under section 406 of that Act of the company and any relevant transferee company.
- (3) A company is a “relevant transferee company” if regulation 6B or 6C of the Disregard Regulations applies in relation to the company as the transferee mentioned in the regulation (on the assumption that an election has been made before the transfer under this paragraph).
- (4) An election under this paragraph has effect only if every company which was a UK group company of the worldwide group on 1 April 2017 (other than one which was

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dormant on that date or at the time the election is made) also makes an election under this paragraph.

- (5) An election under this paragraph—
  - (a) must be made before 1 April 2018, and
  - (b) is irrevocable.
- (6) Section 457 of TIOPA 2010 is to apply in relation to debits resulting from an election under this paragraph.
- (7) In this paragraph “the Disregard Regulations” means the Loan Relationships and Derivative Contracts (Disregard and Bringing into Account of Profits and Losses) Regulations 2004 (S.I. 2004/3256).
- (8) Expressions used in this paragraph and in Part 10 of TIOPA 2010 have the same meaning in this paragraph as they have in that Part.

#### *Qualifying infrastructure companies*

- 32 (1) In the case of an accounting period of a company beginning before 1 April 2018, the company may make an election under section 433 or 444 of TIOPA 2010 before that date.
- (2) Companies making an election under section 435 of TIOPA 2010 before 1 April 2018 may specify a date in the election from which it has effect which is before the date on which the election is made.
- 33 (1) This paragraph applies in the case of an accounting period of a company beginning before 1 April 2018 (“the transitional accounting period”) if—
  - (a) the company does not meet the public infrastructure assets test, or the public infrastructure income test, for the transitional accounting period, but
  - (b) in the case of each test that it does not meet as mentioned in paragraph (a), the company would meet the test for an accounting period that includes that date and is at least 3 months long.
- (2) For the purposes of section 433 of TIOPA 2010 the company is treated as meeting the test (or tests) for the transitional accounting period.
- (3) For the purposes of sections 438 and 440 to 442 of TIOPA 2010 such adjustments to the relevant amounts are to be made as are just and reasonable, having regard to the extent to which, but for this paragraph, the company would not have met the public infrastructure assets test, or the public infrastructure income test, for the transitional accounting period.
- (4) For this purpose “the relevant amounts” means—
  - (a) amounts that would otherwise have qualified as exempt amounts under section 438,
  - (b) amounts that would otherwise have been treated as mentioned in section 440,
  - (c) the tax-EBITDA of the company, and
  - (d) the amounts that would otherwise have been left of account as a result of section 442.
- (5) Expressions used in this paragraph and in section 433 of TIOPA 2010 have the same meaning in this paragraph as they have in that section.

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*Counteracting effect of avoidance arrangements*

- 34 (1) This paragraph applies in relation to section 461 of TIOPA 2010.
- (2) Section 461 applies in relation to arrangements whenever entered into.
- (3) Arrangements are not “relevant avoidance arrangements” for the purposes of section 461 so far as—
- (a) they secure that an amount paid before 1 April 2017 is brought into account in an accounting period ending before that date, and
  - (b) directly in consequence of the amount being brought into account as mentioned in paragraph (a), there is a reduction in the tax-interest expense amounts that could otherwise have been left out of account under Part 10 of TIOPA 2010.
- (4) If an accounting period begins before 1 April 2017 and ends on or after that date, sub-paragraph (3) is to have effect as if so much of the accounting period as falls before that date, and so much of that period as falls on or after that date, were treated as separate accounting periods.
- (5) Arrangements are not “relevant avoidance arrangements” for the purposes of section 461 if the obtaining of any tax advantages that would otherwise arise from them can reasonably be regarded as arising wholly from commercial restructuring arrangements entered into in connection with the commencement of Part 10 of TIOPA 2010.
- (6) For this purpose “commercial restructuring arrangements” means—
- (a) arrangements that, but for that Part, would have resulted in significantly more corporation tax becoming payable as a result of one or more loan relationships being brought within the charge to corporation tax, or
  - (b) arrangements that—
    - (i) are designed to secure, in a way that is wholly consistent with its policy objectives, the benefit of a relief expressly conferred by a provision of that Part, and
    - (ii) are effected by taking only ordinary commercial steps in accordance with a generally prevailing commercial practice.
- (7) This paragraph is to be read as if it formed part of section 461.

*Commencement of orders or regulations containing consequential provision*

- 35 (1) This paragraph applies in relation to any order or regulations made before 1 April 2018 by the Treasury or Commissioners containing provision that is consequential on provision made by this Schedule.
- (2) Any order or regulations to which this paragraph applies may contain provision (however expressed) for securing that the consequential provision made by the order or regulations has effect in accordance with paragraph 25 (commencement) as if the consequential provision were included in the corporate interest restriction amendments mentioned in that paragraph.

*Interpretation*

- 36 References in this Part of this Schedule to Part 10 of TIOPA 2010 are to Part 10 of that Act as inserted by Parts 1 and 2 of this Schedule.