

SCHEDULES

SCHEDULE 7

Section 25

TRADING PROFITS TAXABLE AT THE NORTHERN IRELAND RATE

PART 1

AMENDMENTS RELATING TO SMES

Amendments of CTA 2010

- 1 CTA 2010 is amended as follows.
- 2 (1) Section 357H (introduction) is amended as follows.
 - (2) In subsection (5)—
 - (a) after “that is an SME” insert “and is a Northern Ireland employer”;
 - (b) for “that is not an SME” substitute “that—
 - (a) is an SME that is not a Northern Ireland employer and has made the requisite election, or
 - (b) is not an SME.”
- 3 (1) Section 357KA (meaning of “Northern Ireland company”) is amended as follows.
 - (2) In subsection (1)(b), for “the SME condition” substitute “the SME (Northern Ireland employer) condition, the SME (election) condition”.
 - (3) In subsection (2), for “SME condition” substitute “SME (Northern Ireland employer) condition”.
 - (4) After subsection (2) insert—

“(2A) The “SME (election) condition” is that—

 - (a) the company is an SME in relation to the period,
 - (b) the company is not a Northern Ireland employer in relation to the period,
 - (c) the company has a NIRE in the period,
 - (d) the company is not a disqualified close company in relation to the period, and
 - (e) an election by the company for the purposes of this subsection has effect in relation to the period.”
 - (5) In subsection (4), after the definition of “Northern Ireland employer” insert—

““disqualified close company”, see section 357KEA;”.
 - (6) After subsection (3) insert—

“(3A) An election for the purposes of subsection (2A)—

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- (a) must be made by notice to an officer of Revenue and Customs,
 - (b) must specify the accounting period in relation to which it is to have effect (“the specified accounting period”),
 - (c) must be made before the end of the period of 12 months beginning with the end of the specified accounting period, and
 - (d) if made in accordance with paragraphs (a) to (c) has effect in relation to the specified accounting period.”
- 4 (1) Section 357KE (Northern Ireland workforce conditions) is amended as follows.
- (2) In subsection (2)—
- (a) omit the “and” at the end of paragraph (b), and
 - (b) at the end of paragraph (c) insert “, and
 - (d) in the case of a close company, or of a company which would be a close company if it were UK resident, individuals who are participators in the company.”
- (3) After subsection (7) insert—
- “(7A) In this section “participator” has the same meaning as in sections 1064 to 1067 (see sections 1068 and 1069).
- (7B) In determining for the purposes of this section the amount of working time that is spent in any place by a participator in the company, time spent by the participator in that place is to be included where—
- (a) the time is spent by the participator in providing services to a person other than the company (“the third party”), and
 - (b) condition A or B is met.
- (7C) Condition A is that the provision of the services results in a payment being made (whether directly or indirectly) to the company by—
- (a) the third party, or
 - (b) a person connected with the third party.
- (7D) Condition B is that—
- (a) the company holds a right that it acquired (whether directly or indirectly) from the participator, and
 - (b) any payment in connection with that right is made (whether directly or indirectly) to the company by—
 - (i) the third party, or
 - (ii) a person connected with the third party.
- (7E) Section 1122 (connected persons) applies for the purposes of this section.”
- 5 After section 357KE insert—

“Meaning of “disqualified close company”

357KEA “Disqualified close company”

- (1) A company is a “disqualified close company” in relation to a period if—
- (a) the company is a close company, or would be a close company if it were UK resident, at any time in the period, and

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- (b) conditions A and B are met.
 - (2) Condition A is that the company has a NIRE in the period as a result of tax-avoidance arrangements.
 - (3) Condition B is that—
 - (a) 50% or more of the working time that is spent in the United Kingdom during the period by members of the company’s workforce is working time spent by participators in the company otherwise than in Northern Ireland, or
 - (b) 50% or more of the company’s workforce expenses that are attributable to working time spent in the United Kingdom during the period by members of the company’s workforce are attributable to working time spent by participators in the company otherwise than in Northern Ireland.
 - (4) For the purposes of this section “tax avoidance arrangements” means arrangements the sole or main purpose of which is to secure that any profits or losses of the company for the period are Northern Ireland profits or losses.
 - (5) In subsection (4) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
 - (6) The following provisions apply for the purposes of this section as they apply for the purposes of section 357KE (Northern Ireland workforce conditions)
 - (a) subsections (2) to (5) and (7A) to (7E) of that section;
 - (b) regulations made under that section.
 - (7) In its application by virtue of subsection (6), subsection (5) of section 357KE has effect as if the reference in it to subsection (1)(b) of that section were to subsection (3)(b) of this section.”
- 6 In the heading of Chapter 6 of Part 8B, at the end insert “that are Northern Ireland employers”.
- 7 In section 357M (Chapter 6: introductory), in subsection (1), for “SME condition” substitute “SME (Northern Ireland employer) condition”.
- 8 In the heading of Chapter 7 of Part 8B, after “losses etc:” insert “SMEs that are not Northern Ireland employers and”.
- 9 In section 357N (Chapter 7: introductory), in subsection (1), after “by virtue of” insert “the SME (election) condition or”.
- 10 (1) Section 357OB (Northern Ireland intangibles credits and debits: SMEs) is amended as follows.
- (2) In the heading, at the end, insert “that are Northern Ireland employers”.
 - (3) In subsection (1)(a), for “SME condition” substitute “SME (Northern Ireland employer) condition”.
- 11 (1) Section 357OC (Northern Ireland intangibles credits and debits: large companies) is amended as follows.

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- (2) In the heading, after “debits:” insert “SMEs that are not Northern Ireland employers and”.
- (3) In subsection (1), after “by virtue of” insert “the SME (election) condition or”.
- 12 (1) Section 357VB (relevant Northern Ireland IP profits: SMEs) is amended as follows.
- (2) In the heading, at the end, insert “that are Northern Ireland employers”.
- (3) In subsection (1)(a), for “SME condition” substitute “SME (Northern Ireland employer) condition”.
- 13 (1) Section 357VC (relevant Northern Ireland IP profits: large companies) is amended as follows.
- (2) In the heading, after “profits:” insert “SMEs that are not Northern Ireland employers and”.
- (3) In subsection (1)(a), after “by virtue of” insert “the SME (election) condition or”.
- 14 (1) Section 357WA (meaning of “Northern Ireland firm”) is amended as follows.
- (2) In subsection (1)(b), for “SME partnership condition” substitute “SME (Northern Ireland employer) partnership condition, the SME (election) partnership condition”.
- (3) In subsection (2), for “SME partnership condition” substitute “SME (Northern Ireland employer) partnership condition”.
- (4) After subsection (2) insert—
- “(2A) The “SME (election) partnership condition” is that—
- (a) the firm is an SME in relation to the firm’s accounting period,
- (b) the firm is not a Northern Ireland employer in relation to that period,
- (c) the firm has a NIRE in that period,
- (d) the firm is not a disqualified firm in relation to the period, and
- (e) an election by the firm for the purposes of this subsection has effect in relation to that period.”
- (5) After subsection (3) insert—
- “(3A) An election for the purposes of subsection (2A)—
- (a) must be made by notice to an officer of Revenue and Customs,
- (b) must specify the accounting period in relation to which it is to have effect (“the specified accounting period”),
- (c) must be made before the end of the period of 12 months beginning with the end of the specified accounting period, and
- (d) if made in accordance with paragraphs (a) to (c) has effect in relation to the specified accounting period.”
- (6) In subsection (4)—
- (a) in the opening words, for “to subsections (2) and (3)” substitute “in relation to a firm”;
- (b) for paragraph (b) substitute—
- “(b) references to the Northern Ireland workforce conditions were to the Northern Ireland workforce partnership conditions (see section [357WBA](#)).”

(7) In subsection (5) omit paragraph (c).

15 After section 357WB, insert—

“357WBA Northern Ireland workforce partnership conditions

(1) The Northern Ireland workforce partnership conditions, in relation to a period, are—

- (a) that 75% or more of the working time that is spent in the United Kingdom during the period by members of the firm’s workforce is spent in Northern Ireland, and
- (b) that 75% or more of the firm’s workforce expenses that are attributable to working time spent in the United Kingdom during the period by members of the firm’s workforce are attributable to time spent in Northern Ireland.

(2) References in this section to members of the firm’s workforce are to—

- (a) employees of the firm,
- (b) externally provided workers in relation to the firm, and
- (c) individuals who are partners in the firm.

(3) In subsection (2) “externally provided worker”, in relation to a firm, has the same meaning as in Part 13 of CTA 2009 (see section 1128 of that Act).

In the application of section 1128 of that Act for the purposes of subsection (2), references to a company are to be read as references to a firm and references to a director are to be treated as omitted.

(4) References in this section to the working time spent by members of the firm’s workforce in a place are to the total time spent by those persons in that place while providing services to the firm.

(5) References in this section to “the firm’s workforce expenses” are, where the period is an accounting period of the firm, to the total of the deductions made by the firm in the period in respect of members of the firm’s workforce in calculating the profits of the firm’s trade.

(6) References in this section to “the firm’s workforce expenses” are, where the period is not an accounting period of the firm, to the total of—

- (a) the deductions made by the firm in any accounting period falling wholly within the period, and
- (b) the appropriate proportion of the deductions made by the firm in any accounting period falling partly within the period,

in respect of members of the firm’s workforce in calculating the profits of the firm’s trade.

(7) For the purposes of subsection (6)(b), “the appropriate proportion” is to be determined by reference to the number of days in the periods concerned.

(8) The Commissioners for Her Majesty’s Revenue and Customs may by regulations specify descriptions of deduction that are, or are not, to be regarded for the purposes of this section as made in respect of members of a firm’s workforce.

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- (9) Regulations under this section—
- (a) may make different provision for different purposes;
 - (b) may make incidental, supplemental, consequential and transitional provision and savings.
- (10) Section 357WBB contains supplementary provision applying for the purposes of this section.

357WBB Section 357WBA: supplementary

- (1) References in section 357WBA or this section to a partner in the firm include any person entitled to a share of income of the firm.
- (2) In determining for the purposes of section 357WBA the amount of working time that is spent in any place by a partner in the firm, time spent by the partner in that place is to be included where—
- (a) the time is spent by the partner in providing services to a person other than the firm (“the third party”), and
 - (b) condition A or B is met.
- (3) Condition A is that the provision of the services results in a payment being made (whether directly or indirectly) to the firm by—
- (a) the third party, or
 - (b) a person connected with the third party.
- (4) Condition B is that—
- (a) the firm holds a right that it acquired (whether directly or indirectly) from the partner, and
 - (b) any payment in connection with that right is made (whether directly or indirectly) to the firm by—
 - (i) the third party, or
 - (ii) a person connected with the third party.
- (5) Section 1122 (connected persons) applies for the purposes of this section.
- (6) References in section 357WBA to deductions made in respect of the members of the firm’s workforce in calculating profits of the firm’s trade include, in relation to a partner in the firm, the appropriate notional consideration for services provided by the partner (see subsections (7) and (8)).
- (7) For the purposes of subsection (6), “the appropriate notional consideration for services” provided by a partner is—
- (a) the amount which the partner would receive in consideration for services provided to the firm by the partner during the period in question, were the consideration to be calculated on the basis mentioned in subsection (8), less
 - (b) any amount actually received in consideration for such services which is not included in the partner’s profit share.
- (8) The consideration mentioned in subsection (7)(a) is to be calculated on the basis that the partner is not a partner in the firm and is acting at arm’s length from the firm.

357WBC “Disqualified firm”

- (1) For the purposes of this Chapter, a firm is a “disqualified firm” in relation to a period if conditions A and B are met.
 - (2) Condition A is that the firm has a NIRE in the period as a result of tax-avoidance arrangements.
 - (3) Condition B is that—
 - (a) 50% or more of the working time that is spent in the United Kingdom during the period by members of the firm’s workforce is working time spent by partners otherwise than in Northern Ireland, or
 - (b) 50% or more of the firm’s workforce expenses that are attributable to working time spent in the United Kingdom during the period by members of the firm’s workforce are attributable to working time spent by partners otherwise than in Northern Ireland.
 - (4) For the purposes of this section “tax avoidance arrangements” means arrangements the sole or main purpose of which is to secure that any profits or losses of the firm for the period are Northern Ireland profits or losses.
 - (5) In subsection (4) “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
 - (6) The following provisions apply for the purposes of this section as they apply for the purposes of section 357WBA (Northern Ireland workforce partnership conditions)—
 - (a) subsections (2) to (5) of that section;
 - (b) regulations made under that section;
 - (c) section 357WBB.”
- 16 In section 357WC (Northern Ireland profits etc of firm determined under Chapter 6), in subsection (2), for “SME partnership condition” substitute “SME (Northern Ireland employer) partnership condition”.
- 17 (1) Section 357WD (Northern Ireland profits etc of firm determined under Chapter 7) is amended as follows.
- (2) For subsections (1) to (3) substitute—
- “(1) This section applies where—
- (a) a company (“the corporate partner”) is a partner in a firm at any time during an accounting period of the firm (“the firm’s accounting period”) and is within the charge to corporation tax in relation to the firm’s trade, and
 - (b) condition A or B is met.
- (2) Condition A is that the firm is a Northern Ireland firm in the firm’s accounting period by virtue of the SME (election) partnership condition or the large partnership condition in section 357WA.
- (3) Condition B is that—

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- (a) the firm is a Northern Ireland firm in the firm’s accounting period by virtue of the SME (Northern Ireland employer) partnership condition in section 357WA, and
 - (b) the corporate partner is not an SME in relation to an accounting period of the corporate partner which is the same as, or overlaps (to any extent), the firm’s accounting period.”
- (3) In subsection (4), after “losses etc:” insert “SMEs that are not Northern Ireland employers and”.
- 18 In section 357WE (sections 357WC and 357WD: interpretation), omit subsection (2).
- 19 (1) Section 357WF (application of section 747 of CTA 2009 to Northern Ireland firm) is amended as follows.
- (2) In paragraph (e)—
- (a) for “SME condition” substitute “SME (Northern Ireland employer) condition”;
 - (b) for “SME partnership condition” substitute “SME (Northern Ireland employer) partnership condition”.
- (3) After paragraph (e) insert—
- “(ea) references to the SME (election) condition in section 357KA were to the SME (election) partnership condition in section 357WA;”.
- 20 (1) Section 357WG (application of Part 8A to Northern Ireland firm) is amended as follows.
- (2) In paragraph (g)—
- (a) for “SME condition” (in the first place it appears) substitute “SME (Northern Ireland employer) condition”;
 - (b) for “SME condition” (in the second place it appears) substitute “SME (Northern Ireland employer) partnership condition”.
- (3) For paragraph (h) substitute—
- “(h) references in section 357VC to—
- (i) the SME (election) condition in section 357KA were to the SME (election) partnership condition in section 357WA;
 - (ii) the large company condition in section 357KA were to the large partnership condition in section 357WA;
 - (iii) a qualifying trade by virtue of section 357KB(1) were to a qualifying partnership trade by virtue of section 357WB(1).”
- 21 In Schedule 4 (index of defined expressions)—
- (a) omit the entry for “SME condition (in Part 8B)”;
 - (b) at the appropriate places, insert—
- | | |
|---|-----------------|
| “disqualified close company (in Part 8B) | section 357KEA” |
| “SME (Northern Ireland employer) condition (in Part 8B) | section 357KA” |
| “SME (election) condition (in Part 8B) | section 357KA” |

Amendments relating to capital allowances

- 22 CAA 2001 is amended in accordance with paragraphs 23 and 24.
- 23 (1) Section 6A (“NIRE company” and “Northern Ireland SME company”) is amended as follows.
- (2) In the heading, for “Northern Ireland SME company” substitute “SME (Northern Ireland employer) company”.
- (3) In the definition of “NIRE company”, after “by virtue of” insert “the SME (election) condition or”.
- (4) For “Northern Ireland SME company” substitute “SME (Northern Ireland employer) company”.
- (5) For “SME condition” substitute “SME (Northern Ireland employer) condition”.
- 24 In the following provisions, for “a Northern Ireland SME company” substitute “an SME (Northern Ireland employer) company”—
- (a) section 6C(1)(a) and (c);
- (b) section 6D(1);
- (c) section 6E(1);
- (d) section 61(4B)(a);
- (e) section 66B(1)(a), (b) and (c);
- (f) section 66C(b);
- (g) section 66D(1)(a) and (b);
- (h) section 66E(b);
- (i) section 212ZE(b);
- (j) Schedule 1.
- 25 In CT(NI)A 2015, in Schedule 1, in Part 6 (capital allowances: transitional provision), in paragraphs 20(1)(a) and 21(1)(a), for “a Northern Ireland SME company” substitute “an SME (Northern Ireland employer) company”.

PART 2

MINOR AMENDMENTS

- 26 In section 357IA of CTA 2010 (power of Northern Ireland Assembly to set Northern Ireland rate), for “Minister of Finance and Personnel” substitute “Minister of Finance”.
- 27 In section 357QB(5)(b) of that Act (tax credit: entitlement), for “Chapter 2” substitute “land remediation”.
- 28 (1) Paragraph 2 of Schedule A1 to CAA 2001 (amount of first-year tax credit) is amended as follows.
- (2) For sub-paragraphs (3A) and (4) substitute—
- “(4) The Treasury may by regulations amend sub-paragraph (1)—
- (a) so as to provide for a different percentage to apply where the surrenderable loss relates to a qualifying activity that is an NI rate activity, or

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- (b) so as to substitute for any percentage for the time being specified in that sub-paragraph such other percentage as the Treasury thinks fit.”
 - (3) In sub-paragraph (5), for “An order” substitute “Regulations”.
- 29 In consequence of paragraph 28, in the Corporation Tax (Northern Ireland) Act 2015, in Schedule 1, omit paragraph 10.

PART 3

COMMENCEMENT ETC

- 30 (1) Any power to make regulations under Part 8B of CTA 2010 by virtue of Part 1 or 2 of this Schedule may be exercised on or after the day on which this Act is passed.
- (2) Section 4 of CT(NI)A 2015 (power to make consequential amendments) has effect as if Parts 1 and 2 of this Schedule were contained in that Act.
- (3) Section 5(4) to (6) of CT(NI)A 2015 (commencement) has effect as if—
- (a) references to Part 8B of CTA 2010 were to that Part as amended by Parts 1 and 2 of this Schedule, and
 - (b) references to the amendments made by Schedules 1 and 2 to CT(NI)A 2015 included the amendments made by paragraphs 21 to 24 of this Schedule.