

## SCHEDULES

### SCHEDULE 2

#### QUALIFYING ASSET HOLDING COMPANIES

##### PART 7

###### TREATMENT OF CERTAIN AMOUNTS PAYABLE BY A QAHC

###### *Treatment of certain distributions*

- 44 (1) A relevant distribution out of assets of a QAHC in respect of a security of the QAHC is not to be treated as a distribution for the purposes of the Corporation Tax Acts if the QAHC is party to the security for the purposes of its QAHC ring fence business.
- (2) Accordingly, among other things, section 465 of CTA 2009 (exclusion of distributions from being taken into account for the purposes of Part 5 of that Act) does not apply to a relevant distribution.
- (3) A “relevant distribution” is any interest or distribution in respect of a security of a QAHC if it would, ignoring this paragraph, be a distribution for the purposes of the Corporation Tax Acts only as a result of the security being a relevant security.
- (4) In sub-paragraph (3) “relevant security” means a security that—
- (a) meets Condition B, C or D, or any combination of those conditions, in section 1015 of CTA 2010 (meaning of “special securities”) and does not meet Condition A or E in that section, or
  - (b) is a non-commercial security within the meaning of section 1005 of that Act.
- (5) Where a QAHC is party to a security partly for the purposes of its QAHC ring fence business and partly for another purpose, only the proportion of a relevant distribution in respect of that security that is attributable to the QAHC ring fence business (apportioned on a just and reasonable basis) is not to be treated as a distribution for the purposes of the Corporation Tax Acts.

###### *Application of hybrid and other mismatches rules where paragraph 44 applies*

- 45 (1) For the purposes of subsection (2) of section 259CB of TIOPA 2010 (hybrid or otherwise impermissible deduction/non-inclusion mismatches and their extent), so far as the excess referred to in that subsection arises by reason of a qualified distribution, it is to be taken not to arise by reason of the terms, or any other feature, of the security in respect of which the qualified distribution is made (whether or not it would have arisen by reason of the terms, or any other feature, of the security regardless).
- (2) For the purposes of subsection (7) of section 259CB of TIOPA 2010 (hybrid or otherwise impermissible deduction/non-inclusion mismatches and their extent), so

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far as an amount of ordinary income is under taxed by reason of a qualified distribution, it is to be taken not to be under taxed by reason of the terms, or any other feature, of the security in respect of which the qualified distribution is made (even if it would have been under taxed for another reason regardless of the terms, or any other feature, of the security).

- (3) That section has effect as if in subsections (4) and (8) after “(9)” there were inserted “and paragraph 45(1) and (2) of Schedule 2 to FA 2022”.
- (4) Where a QAHC is obliged to make a qualified distribution as a result of a payment to it, so much of that payment as gives rise to the obligation is to be treated as ordinary income of the QAHC for the purposes of Chapter 3 of Part 6A of TIOPA 2010 (hybrid and other mismatches from financial instruments).
- (5) In this paragraph—
  - “qualified distribution” means a relevant distribution (see paragraph 44) that is not treated as a distribution for the purposes of the Corporation Tax Acts as a result of paragraph 44;
  - “payment”, “ordinary income” and “under taxed” have the meanings they have in Part 6A of TIOPA 2010 (see sections 259BB, 259BC and 259CC of that Act).

*Payments of distributions etc to individual to whom the remittance basis applies*

- 46 (1) This paragraph applies in relation to income or a chargeable gain arising to an individual in a tax year if—
  - (a) section 809B, 809D or 809E of ITA 2007 applies to the individual for that tax year,
  - (b) the income or gain arises as a result of—
    - (i) the payment of interest by a QAHC,
    - (ii) the making of a distribution or a qualified distribution by a QAHC, or
    - (iii) the disposal by the individual of shares in a QAHC,
  - (c) in the case of a payment of interest or the making of a distribution or qualified distribution, the individual provided investment management services in connection with investment arrangements to which the QAHC is party, and
  - (d) in the case of a disposal of shares, the shares were acquired by the individual during the course of the individual providing investment management services in relation to such arrangements.
- (2) The foreign proportion of the amount of any such income is to be treated, for the purposes of income tax, as relevant foreign income.
- (3) The foreign proportion of the amount of any such gain is to be treated, for the purposes of capital gains tax, as a gain accruing on the disposal of foreign assets.
- (4) For the purposes of this paragraph, the “foreign proportion” of an amount of income or of a gain is equal to the proportion of the profits of the QAHC in the relevant period that was derived from foreign sources, apportioned on a just and reasonable basis in accordance with sub-paragraph (6).
- (5) The “relevant period” means—

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- (a) where the QAHC has been a QAHC for at least three accounting periods, the three most recent complete accounting periods of the QAHC, or
  - (b) otherwise, the period beginning with beginning of the day on which the QAHC became a QAHC and ending with—
    - (i) where the income or chargeable gain arose to the individual on that day, the end of that day, or
    - (ii) otherwise, the end of the day before the income or chargeable gain arose to the individual.
- (6) For the purposes of determining the proportion of profits of a QAHC that were derived from foreign sources in the relevant period—
- (a) include any profits that would have arisen had the QAHC disposed of all of its assets for a consideration equal to the market value of the assets immediately before the end of the period, and
  - (b) whether profits are derived from foreign sources is to be determined by reference to the ultimate underlying income or assets to which the profits relate (so, for example, the extent to which profits arising from an interest in another company are derived from foreign sources depends on the extent to which the profits of that company are derived from income arising outside the United Kingdom or the disposal of assets outside the United Kingdom).
- (7) In this paragraph—
- “foreign asset” has the meaning it has in Schedule 1 to TCGA 1992 (see paragraph 5 of that Schedule);
  - “profits”, in relation to a company, means income and chargeable gains;
  - “qualified distribution” has the meaning given by paragraph 45(5).

#### *Purchase of own shares*

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- (1) A payment made by a QAHC on the redemption, repayment or purchase of its own shares is not a distribution for the purposes of the Corporation Tax Acts.
  - (2) But sub-paragraph (1) does not apply to payments in relation to qualifying employment-related securities.
  - (3) “Qualifying employment-related securities” means employment-related securities acquired by a person, other than a fund manager in relation to the QAHC, where the right or opportunity to acquire the securities or interest is available by reason of an employment of that person or any other person by—
    - (a) the QAHC, or
    - (b) a company in which the QAHC has at least a 25% interest.
  - (4) To determine for the purposes of sub-paragraph (3)(b) whether a QAHC has at least a 25% interest in a company, apply the rules for determining whether a company is a 75% subsidiary of another company for the purposes of Part 5 of CTA 2010 (see section 151 and Chapter 3 of Part 24 of that Act) as if references to “75%” were to “25%”.
  - (5) In this paragraph—
    - “employment-related securities” has the meaning given by section 421B of ITEPA 2003;

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“fund manager”, in relation to a QAHC, means an individual who provides investment management services in relation to the QAHC ring fence business of the QAHC;

“own shares”, in relation to a company, means shares of the company.

*Disapplication of paragraph 47 during cure period for certain non-category A investors*

- 48 (1) Where a QAHC has breached the ownership condition and a cure period applies to the breach, paragraph 47(1) does not apply to payments made to a person who is not a category A investor if—
- (a) where the sum of relevant interests in the QAHC held by persons who are not category A investors exceeds 30%, the person has increased their relevant interests in the QAHC on or after the day on which that limit was exceeded, or
  - (b) where the sum of relevant interests in an enhanced class of the QAHC held by persons who are not category A investors exceeds 30%, the person has increased their relevant interests in that class on or after the day on which that limit was exceeded.
- (2) Where —
- (a) after the breach the QAHC meets the ownership condition, and
  - (b) as a result of paragraph 27(4) the breach is treated as having not occurred for the purposes of Part 3 of this Schedule,
- sub-paragraph (1) continues to apply to payments made before the QAHC met the ownership condition (despite the fact the breach is treated as not having occurred for the purposes of that Part).

*Transactions in securities rules*

- 49 Section 684 of ITA 2007 (person liable to counteraction of income tax advantage) does not apply to a person if—
- (a) that section would (ignoring this paragraph) only apply to the person as a result of the person being a party to a transaction in securities, or two or more transactions in securities, where the securities in question are securities of a QAHC, and
  - (b) the securities are not qualifying employment-related securities (within the meaning given by paragraph 47(3)) in relation to the person.

*Late interest*

- 50 (1) Section 373(1) of CTA 2009 (late interest treated as not accruing until paid in some cases) does not apply to a qualifying debit.
- (2) For the purpose of this paragraph, a debit is “qualifying” if—
- (a) it relates to interest payable under a debtor relationship of a QAHC,
  - (b) the QAHC is party to the relationship for the purposes of its QAHC ring fence business, and
  - (c) the interest to which the debit relates accrues at a time when the QAHC is a QAHC.
- (3) Where a QAHC is party to a debtor relationship partly for the purposes of its QAHC ring fence business and partly for another purpose, sub-paragraph (1) applies only

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to the proportion of the qualifying debit that is attributable to the QAHC ring fence business (apportioned on a just and reasonable basis).

- (4) In this paragraph “debit” and “debtor relationship” are to be construed in accordance with Part 5 of CTA 2009.

*Deeply discounted securities*

- 51 (1) Section 409(2) of CTA 2009 (postponement until redemption of debits for close companies’ deeply discounted securities) does not apply to a qualifying debit.

- (2) For the purposes of this paragraph, a debit is “qualifying” if—
- (a) it is a debit in respect of a deeply discounted security of the QAHC that relates to the amount of the discount,
  - (b) the QAHC is party to the security for the purposes of its QAHC ring fence business, and
  - (c) the discount to which the debit relates is referable to an accounting period during which the QAHC is a QAHC.

- (3) Where a QAHC is party to a deeply discounted security partly for the purposes of its QAHC ring fence business and partly for another purpose, sub-paragraph (1) applies only to the proportion of the qualifying debit that is attributable to the QAHC ring fence business (apportioned on a just and reasonable basis).

- (4) In this paragraph—
- “debit” is to be construed in accordance with Part 5 of CTA 2009;
  - “deeply discounted security” has the meaning it has in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 430 of that Act);
  - “the discount” has the meaning given by section 406(3) of CTA 2009.