

*Status: Point in time view as at 17/07/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Betting and Gaming Duties Act 1981, SCHEDULE 4B. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4B

#### REMOTE GAMING DUTY: DOUBLE TAXATION RELIEF

##### Textual Amendments

- F1** Sch. 4B inserted (with effect in accordance with Sch. 25 para. 12 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 25 para. 9](#)

##### *Introduction*

- 1 This Schedule sets out the rules for determining whether credit is allowed under section 26IA for qualifying foreign tax paid by P.

##### *Reconciliation periods*

- 2 (1) For the purposes of this Schedule, a “reconciliation period” is—
- (a) if P has quarterly accounting periods, a period consisting of 4 consecutive accounting periods, and
  - (b) if P has any other length of accounting period, a period consisting of such number of consecutive accounting periods as would produce a period as near as possible to 365 days.
- (2) In relation to an accounting period, a reference to “the reconciliation period” is to the reconciliation period in which that accounting period falls.

##### *Credit allowed*

- 3 (1) To determine whether credit is allowed for an accounting period—
- (a) calculate the notional UK liability and the notional foreign liability for the accounting period, and
  - (b) compare the two figures.
- (2) No credit is allowed if either figure is nil or both figures are nil.
- (3) Subject to that, credit is allowed of an amount equal to the smaller of the two figures (or, if they are the same, of an amount equal to that figure).

##### *Notional UK liability*

- 4 The notional UK liability for an accounting period is calculated as follows—
- Step 1* Calculate P's remote gaming profits for the period in accordance with section 26C(2) but by reference to the use of the facilities provided by P for eligible gaming (rather than remote gaming generally).

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In calculating P's remote gaming profits for the purposes of this Step, do not carry forward to the period any losses (in respect of the use of the facilities for eligible gaming) that arose in an accounting period before the start of the reconciliation period.

*Step 2* If the amount calculated under Step 1 is nil or a negative amount, the notional UK liability for the period is nil.

Otherwise, apply the appropriate rate to the amount calculated under Step 1. The result is the notional UK liability for the period.

“The appropriate rate” is the percentage specified in section 26C(1) as in force for the accounting period in question.

#### *Notional foreign liability*

- 5 The notional foreign liability for an accounting period is calculated as follows—  
*Step 1* Calculate the amount of qualifying foreign tax that would be payable by P for the accounting period if the tax were charged in respect of eligible gaming and were accounted for by reference to periods corresponding to P's accounting periods.

Any apportionment needed for this calculation is to be done on a just and reasonable basis.

If the law under which the qualifying foreign tax is imposed provides for losses to be carried forward, do not carry forward to the period any losses (in respect of eligible gaming) that arose before the start of the reconciliation period.

*Step 2* If the amount calculated under Step 1 is nil, the notional foreign liability for the period is nil.

Otherwise, calculate the sterling equivalent of the amount calculated under Step 1. The result is the notional foreign liability for the period.

The sterling equivalent is to be calculated using the London closing exchange rate for the last day of the accounting period.

#### *Clawback*

- 6 (1) This paragraph applies if in respect of eligible gaming—
- (a) P receives a repayment under section 26IA for one or more accounting periods in a reconciliation period, and
  - (b) the amount calculated under Step 1 in paragraph 4 for the final accounting period in that reconciliation period is a negative amount.
- (2) P is liable to repay all or part of the repayment or repayments received.
- (3) The amount that P is liable to repay is the smallest of—
- (a) the loss multiplied by the rate at which the qualifying foreign tax is charged in respect of eligible gaming,
  - (b) the loss multiplied by the appropriate rate (as defined in paragraph 4), and
  - (c) the repayment (or the sum of the repayments) made to P for the reconciliation period.

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- (4) “The loss” means the negative amount mentioned in sub-paragraph (1)(b) but expressed as a positive number.
- (5) If there is more than one rate at which the qualifying foreign tax is charged in respect of eligible gaming, each rate is to be applied to an appropriate portion of the loss in order to arrive at the amount under sub-paragraph (3)(a).
- (6) If all or part of the qualifying foreign tax is calculated other than on a net receipts basis, sub-paragraph (3) has effect as if paragraph (a) were omitted.
- (7) Any amount due from P under this paragraph is to be treated as if it were an amount of unpaid remote gaming duty.

#### *Breach of return obligations*

- 7 The Commissioners are not required to make a repayment under section 26IA if P is in breach of any obligation to deliver a return with respect to—
- (a) general betting duty,
  - (b) pool betting duty,
  - (c) bingo duty,  
[ machine games duty,]
  - <sup>F2</sup>(ca) remote gaming duty,
  - (e) gaming duty, or
  - (f) lottery duty.

#### **Textual Amendments**

**F2** Sch. 4B para. 7(ca) inserted (with effect in accordance with Sch. 24 para. 66(2) of the amending Act) by Finance Act 2012 (c. 14), Sch. 24 para. 46

#### *Reduction etc in foreign tax paid*

- 8 (1) Sub-paragraphs (2) to (4) apply if any of the following events take place—
- (a) the way in which a qualifying foreign tax is charged or calculated is changed retrospectively,
  - (b) a tax authority waives or refunds all or part of an amount of qualifying foreign tax due from P, or
  - (c) as a result of being liable to pay an amount of qualifying foreign tax, P or a connected person is entitled to any kind of tax deduction or relief calculated by reference to the amount of qualifying foreign tax.
- (2) P must notify the Commissioners of the event on becoming aware of it.
- (3) If the event is a retrospective change in the way in which the qualifying foreign tax is charged or calculated, the amount for which credit is allowed under section 26IA is to be recalculated in accordance with this Schedule.
- (4) In any other case, the amount for which credit is allowed under that section is to be reduced by a just and reasonable sum to reflect the amount of tax waived or refunded or the deduction or relief given.

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- (5) If it transpires (on account of this paragraph or otherwise) that a repayment or part of a repayment under section 261A should not have been made, P is liable for the amount that should not have been repaid, as if it were unpaid remote gaming duty.
- (6) Section 1122 of the Corporation Tax Act 2010 (connected persons) applies for the purposes of sub-paragraph (1)(c).]

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