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SCHEDULES

SCHEDULE 25

[^{F1}CASES WHERE SECTION 747(3) DOES NOT APPLY]

Textual Amendments

- F1** Sch. 25 heading substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), Sch. 17 para. 25; S.I. 1998/3173, art. 2

PART II

EXEMPT ACTIVITIES

- 6 (1) Throughout an accounting period a controlled foreign company is engaged in exempt activities if, and only if, each of the following conditions is fulfilled—
- (a) that, throughout that accounting period, the company has a business establishment in the territory in which it is resident; and
 - (b) that, throughout that accounting period, its business affairs in that territory are effectively managed there; and
 - (c) that any of sub-paragraphs (2) to [^{F1}(4A)] below applies to the company.
- (2) This sub-paragraph applies to a company if—
- (a) at no time during the accounting period in question does the main business of the company consist of either—
 - (i) investment business, or
 - (ii) dealing in goods for delivery to or from the United Kingdom or to or from connected or associated persons; and
 - (b) in the case of a company which is mainly engaged in wholesale, distributive [^{F2}financial or service] business in that accounting period, less than 50 per cent. of its gross trading receipts from that business is derived directly or indirectly from [^{F3}persons falling within sub-paragraph (2A) below.]
- [^{F4}(2A) Those persons are—
- (a) persons who are connected or associated with the company;
 - (b) persons who have a 25 per cent assessable interest in the company in the case of the accounting period in question; and
 - (c) if the company is a controlled foreign company in that accounting period by virtue of subsection (1A) of section 747, persons who are connected or associated with either or both of the two persons mentioned in that subsection.]

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- (3) This sub-paragraph applies to a company which is a holding company if at least 90 per cent. of its gross income during the accounting period in question [^{F5}is received by it in the territory in which it is resident and] is derived directly from companies which it controls and which, throughout that period—
- (a) are resident in the territory in which the holding company is resident; and
 - (b) are not themselves holding companies [^{F6}or superior holding companies], but otherwise are, in terms of this Schedule, engaged in exempt activities [^{F7}or are, in terms of sub-paragraph (5A) below, exempt trading companies] ;
- and a holding company to which this sub-paragraph applies is in this Part of this Schedule referred to as a “local holding company”.
- (4) This sub-paragraph applies to a company which is a holding company, but not a local holding company, if at least 90 per cent. of its gross income during the accounting period in question [^{F8}falls within sub-paragraph (4ZA) below and] is derived directly from companies which it controls and which, throughout that period—
- (a) are local holding companies; or
 - (b) are not themselves holding companies (whether local or not) [^{F9}or superior holding companies], but otherwise are, in terms of this Schedule, engaged in exempt activities [^{F10}or are, in terms of sub-paragraph (5A) below, exempt trading companies].
- [^{F11}(4ZA) For the purposes of sub-paragraph (4) above, income of the holding company falls within this sub-paragraph if—
- (a) the company from which the holding company directly derives the income is, throughout the accounting period in question, resident in the territory in which the holding company is resident and the income is received by the holding company in that territory; or
 - (b) the income consists of qualifying dividends.]
- [^{F12}(4A) This sub-paragraph applies to a company which is a superior holding company if at least 90 per cent. of its gross income during the accounting period in question—
- (a) represents qualifying exempt activity income of its subsidiaries; and
 - (b) is derived directly from companies which it controls and which fall within sub-paragraph (4B) below [^{F13}; and
 - (c) falls within sub-paragraph (4AA) below.]
- [For the purposes of sub-paragraph (4A) above, income of the superior holding
- [^{F14}(4AA) company falls within this sub-paragraph if—
- (a) the company from which the superior holding company directly derives the income is, throughout the accounting period in question, resident in the territory in which the superior holding company is resident and the income is received by the superior holding company in that territory; or
 - (b) the income consists of qualifying dividends.]
- (4B) For the purposes of paragraph (b) of sub-paragraph (4A) above, a company falls within this sub-paragraph if—
- (a) throughout the accounting period mentioned in that sub-paragraph, it is not itself a superior holding company but otherwise is, in terms of this Schedule, engaged in exempt activities or is, in terms of sub-paragraph (5A) below, an exempt trading company; or

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- (b) it is itself a superior holding company throughout that period and at least 90 per cent of its gross income during that period—
 - (i) represents qualifying exempt activity income of its subsidiaries, and
 - (ii) is derived directly from companies which it controls and which themselves fall within this paragraph or paragraph (a) above^[F15]; and
 - (iii) falls within sub-paragraph (4BB) below.]

^[F16](4BB) For the purposes of sub-paragraph (4B)(b) above, income of the superior holding company there mentioned falls within this sub-paragraph if—

- (a) the company from which that superior holding company directly derives the income is, throughout the accounting period in question, resident in the territory in which that superior holding company is resident and the income is received by that superior holding company in that territory; or
- (b) the income consists of qualifying dividends.]

^[F17](4C) For the purposes of sub-paragraph (2)(b) above, a person has a 25 per cent. assessable interest in a controlled foreign company in the case of an accounting period of the company if, on an apportionment of the chargeable profits and creditable tax (if any) of the company for that accounting period under section 747(3), at least 25 per cent. of the controlled foreign company's chargeable profits for the accounting period would be apportioned to that person.]

- (5) Any reference in ^[F18]sub-paragraphs (3) to (4B)] above to a company which a holding company ^[F19]or superior holding company] controls includes a reference to a trading company ^[F20]to which sub-paragraph (5ZA) or (5ZB) below applies.

(5ZA) This sub-paragraph applies to a trading company] in which the holding company ^[F19]or superior holding company] holds the maximum amount of ordinary share capital which is permitted under the law of the territory—

- (a) in which the trading company is resident; and
- (b) from whose laws the trading company derives its status as a company.

^[F21](5ZB) This sub-paragraph applies to a trading company if—

- (a) it is a controlled foreign company by virtue of subsection (1A) of section 747; and
- (b) the person who satisfies the requirement in paragraph (b) of that subsection in relation to the company also controls the holding company or superior holding company.]

^[F22](5A) For the purposes of sub-paragraphs (3) to (4B) above, a company is an exempt trading company throughout any period if—

- (a) it is a trading company throughout each of its accounting periods which falls wholly or partly within that period; and
- (b) each of those accounting periods is one as regards which—
 - (i) the condition in section 747(1)(c) is not satisfied; or
 - (ii) the conditions in section 748(1)(e) are satisfied; or
 - (iii) the conditions in section 748(3)(a) and (b) are satisfied.]

^[F23](5B) In this paragraph “qualifying dividend” means any dividend other than one for which the company paying the dividend is entitled to a deduction against its profits for tax purposes under the law of the territory in which it is resident.]

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(6) The following provisions of this Part of this Schedule have effect in relation to sub-paragraphs (1) to [F24(4BB)] above.

Textual Amendments

- F1 Words in Sch. 25 para. 6(1)(c) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(2)**; S.I. 1998/3173, **art. 2**
- F2 Words in Sch. 25 para. 6(2)(b) substituted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 5(2)(a)**
- F3 Words in Sch. 25 para. 6(2)(b) substituted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 5(2)(b)**
- F4 Sch. 25 para. 6(2A) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 5(3)**
- F5 Words in Sch. 25 para. 6(3) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 6(2)**
- F6 Words in Sch. 25 para. 6(3)(b) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(4)(a)**; S.I. 1998/3173, **art. 2**
- F7 Words in Sch. 25 para. 6(3)(b) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(4)(b)**; S.I. 1998/3173, **art. 2**
- F8 Words in Sch. 25 para. 6(4) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(2)**
- F9 Words in Sch. 25 para. 6(4)(b) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(5)(a)**; S.I. 1998/3173, **art. 2**
- F10 Words in Sch. 25 para. 6(4)(b) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para 30(5)(b)**; S.I. 1998/3173, **art. 2**
- F11 Sch. 25 para. 6(4ZA) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(3)**
- F12 Sch. 25 para. 6(4A)(4B) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(6)**; S.I. 1998/3173, **art. 2**
- F13 Sch. 25 para. 6(4A)(c) and preceding word added (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(4)**
- F14 Sch. 25 para. 6(4AA) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(5)**
- F15 Sch. 25 para. 6(4B)(b)(iii) and preceding word added (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(6)**
- F16 Sch. 25 para. 6(4BB) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(7)**
- F17 Sch. 25 para. 6(4C) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(7)**; S.I. 1998/3173, **art. 2**
- F18 Words in Sch. 25 para. 6(5) substituted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(8)(a)**; S.I. 1998/3173, **art. 2**
- F19 Words in Sch. 25 para. 6(5) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(8)(b)**; S.I. 1998/3173, **art. 2**
- F20 Words in Sch. 25 para. 6 inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(8)**
- F21 Sch. 25 para. 6(5ZB) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(9)**
- F22 Sch. 25 para. 6(5A) inserted (with effect in accordance with Sch. 17 para. 37 of the amending Act) by Finance Act 1998 (c. 36), **Sch. 17 para. 30(9)**; S.I. 1998/3173, **art. 2**
- F23 Sch. 25 para. 6(5B) inserted (with effect in accordance with Sch. 31 para. 9(4) of the amending Act) by Finance Act 2000 (c. 17), **Sch. 31 para. 7(10)**

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F24 Word in [Sch. 15 para. 6\(6\)](#) substituted (with effect in accordance with [Sch. 31 para. 9\(4\)](#) of the amending Act) by [Finance Act 2000 \(c. 17\)](#), [Sch. 31 para. 7\(11\)](#)

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