
Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1997, Paragraph 5. (See end of Document for details)

SCHEDULES

SCHEDULE 1

QUANTIFICATION OF A PRIVATISATION WINDFALL

Total profits for the initial period

- 5 (1) For the purposes of paragraph 2 above the amount of the total profits for a company's initial period is the sum of the amounts falling within sub-paragraph (2) below.
- (2) Subject to sub-paragraph (3) and paragraph 6(3) below, those amounts are every amount which, for a financial year of the company ending in or at the end of its initial period, is shown in the relevant accounts for that year—
- (a) where those accounts are prepared in accordance with section 227 of the ^{M1}Companies Act 1985 (group accounts), as the profit of that company and its subsidiary undertakings for that year; and
 - (b) in any other case, as the profit of that company for that year.
- (3) Where—
- (a) any profit shown in the relevant accounts of a company for any financial year has been computed using a current cost accounting method, but
 - (b) the information which was contained in those accounts, or which was provided to the registrar together with those accounts, included information from which it can be ascertained what that profit would have been if an historical cost accounting method had been used,
- the amount shown as that profit in those accounts shall be deemed to be the amount (as ascertained from that information) which would have been so shown if that historical cost accounting method had been used.
- (4) In this paragraph references, in relation to any financial year of a company, to the relevant accounts are references to any such accounts for that year as have been or are delivered to the registrar under section 242 of the Companies Act 1985 and consist—
- (a) in the case of a financial year at the end of which the company was a parent undertaking, in consolidated group accounts prepared in accordance with section 227 of that Act (group accounts); and
 - (b) in any other case, in accounts prepared in accordance with section 226 of that Act (individual accounts).
- (5) Subject to sub-paragraph (6) below, references in this paragraph to the amount shown in any accounts as the profit for any financial year are references to the amount of the profit (if any) for that year which is set out in the profit and loss account comprised in those accounts as the item which is, or is the equivalent of, the final item of the statutory format which for that year was used for that profit and loss account.
- (6) Where any amount shown in any accounts is less than it would have been if no provision or other deduction had been made—
- (a) in relation to the windfall tax, or

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- (b) in anticipation of the imposition of a charge with characteristics similar to those of the windfall tax,

this Schedule shall have effect as if the amount shown were the amount it would have been if that provision or deduction had not been made.

- (7) Nothing in this paragraph shall, in the case of any company—
- (a) prevent any charge to windfall tax from being treated as having arisen on 2nd July 1997 by reference to accounts delivered to the registrar after that date; or
- (b) prevent any requirement to pay an instalment of windfall tax, or any other liability under Schedule 2 to this Act, from arising before the delivery to the registrar of the accounts by reference to which the amount of that charge is computed;

and any power of the Board under that Schedule to make an assessment shall include power to make an assessment on the basis that accounts will be delivered to the registrar showing such amounts as may, to the best of their judgement, be determined by the Board.

- (8) Subject to sub-paragraph (9) below, this paragraph shall have effect in relation to any time at which the ^{M2}Companies Act 1985 had effect without the amendments made by the ^{M3}Companies Act 1989—
- (a) as if the references in sub-paragraphs (2) and (4) above to sections 226, 227 and 242 of the Companies Act 1985 were references, respectively, to sections 227, 229 and 241 of that Act, as it had effect without those amendments;
- (b) as if the reference in sub-paragraph (2) above to a company’s subsidiary undertakings were a reference to its subsidiaries (within the meaning of that Act as it so had effect); and
- (c) as if the reference in sub-paragraph (4)(a) above to a company’s being a parent undertaking were a reference to its having such subsidiaries.

- (9) In relation to a company formed and registered in Northern Ireland, this paragraph shall have effect as if the references in sub-paragraphs (2) and (4) above to sections 226, 227 and 242 of the Companies Act 1985 were references, respectively, to Articles 234, 235 and 250 of the ^{M4}Companies (Northern Ireland) Order 1986.

- (10) In this paragraph—
- “the registrar” means—
- (a) except in relation to a company formed and registered in Northern Ireland, the registrar within the meaning of the Companies Act 1985; and
- (b) in relation to a company so formed and registered, the registrar within the meaning of the Companies (Northern Ireland) Order 1986;

and

“statutory format”, in relation to a profit and loss account, means a format set out in the provisions (as they had effect in relation to that account) of Schedule 4 to the Companies Act 1985 or Schedule 4 to the Companies (Northern Ireland) Order 1986.

Marginal Citations

M1 1985 c. 6.

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M2 1985 c. 6.

M3 1989 c. 40.

M4 S.I. 1986/1032 (N.I. 6).

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