



# Finance Act 2006

## 2006 CHAPTER 25

### PART 1

#### EXCISE DUTIES

##### *Tobacco products duty*

#### **1 Rates of tobacco products duty**

- (1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

“TABLE

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|  |  |
|--|--|
| 1. Cigarettes                                | An amount equal to 22 per cent of the retail price plus £105.10 per thousand cigarettes. |
| 2. Cigars                                    | £153.07 per kilogram.  |
| 3. Hand-rolling tobacco                      | £110.02 per kilogram.  |
| 4. Other smoking tobacco and chewing tobacco | £67.30 per kilogram.”  |

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- (2) This section shall be deemed to have come into force at 6 o'clock in the evening of 22nd March 2006.

#### **2 Tobacco products duty: evasion**

- (1) After section 7 of the Tobacco Products Duty Act 1979 (c. 7) (regulations for management of duty) insert—

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### **“7A Duty not to facilitate smuggling**

- (1) A manufacturer of cigarettes or hand-rolling tobacco shall so far as is reasonably practicable avoid—
  - (a) supplying cigarettes or hand-rolling tobacco to persons who are likely to smuggle them into the United Kingdom,
  - (b) supplying cigarettes or hand-rolling tobacco where the nature or circumstances of the supply makes it likely that they will be resupplied to persons who are likely to smuggle them into the United Kingdom, or
  - (c) otherwise facilitating the smuggling into the United Kingdom of cigarettes or hand-rolling tobacco.
- (2) In particular, a manufacturer—
  - (a) in supplying cigarettes or hand-rolling tobacco to persons carrying on business in or in relation to a country other than the United Kingdom, shall consider whether the size or nature of the supply suggests that the products may be required for smuggling into the United Kingdom,
  - (b) shall maintain a written policy about steps to be taken for the purpose of complying with the duty under subsection (1), and
  - (c) shall provide a copy of the policy to the Commissioners on request.
- (3) In this section a reference to smuggling products into the United Kingdom is a reference to importing them into the United Kingdom without payment of duty which is—
  - (a) chargeable under section 2, and
  - (b) payable by virtue of section 1(1) of the Finance (No. 2) Act 1992 (c. 48) (power to fix excise duty point).
- (4) The Commissioners may notify a manufacturer in writing that they think the risk of smuggling into the United Kingdom is particularly great in relation to—
  - (a) products marketed under a specified brand name;
  - (b) products supplied to persons carrying on business in or in relation to a specified country or place.
- (5) The Commissioners may by notice in writing require a manufacturer of cigarettes or hand-rolling tobacco to provide, within a specified period of time, specified information about—
  - (a) supply of products marketed under a brand name specified under subsection (4)(a);
  - (b) supply to persons carrying on business in or in relation to a country or place specified under subsection (4)(b);
  - (c) demand for cigarettes or hand-rolling tobacco in a country or place specified under subsection (4)(b).
- (6) The Commissioners may issue guidance about the content of policies under subsection (2)(b).
- (7) The Commissioners may make regulations—

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- (a) under which they are required to notify manufacturers of cigarettes or hand-rolling tobacco where products of a kind specified in the regulations are seized under section 139 of the Customs and Excise Management Act 1979 (c. 2) in circumstances specified in the regulations,
- (b) specifying the procedure for notification,
- (c) including provision about access to seized products for the purpose of determining who manufactured them, and
- (d) requiring manufacturers to provide the Commissioners with information or documents, of a kind specified in the regulations or determined by the Commissioners, in relation to notified seizures.

### **7B Penalty for facilitating smuggling: initial notice**

- (1) Where the Commissioners think that a manufacturer has without reasonable excuse failed to comply with the duty under section 7A(1) they may give him written notice that they are considering requiring him to pay a penalty.
- (2) In determining whether to give notice to a manufacturer under subsection (1) the Commissioners shall have regard to—
  - (a) the content of the manufacturer's policy under section 7A(2)(b),
  - (b) compliance with that policy,
  - (c) action taken pursuant to any notice under section 7A(4),
  - (d) compliance by the manufacturer with any notice under section 7A(5),
  - (e) the number, size and nature of seizures of which the manufacturer has been given notice by virtue of section 7A(7)(a),
  - (f) compliance by the manufacturer with any requirement by virtue of section 7A(7)(d),
  - (g) evidence about the level of demand for the manufacturer's products for consumption outside the United Kingdom, and
  - (h) any other matter that they think relevant.
- (3) A notice must specify the matters to which the Commissioners have had regard in determining to give it.
- (4) After the end of the period of six months beginning with the date on which a notice is given to a manufacturer, the Commissioners shall give him notice in writing either—
  - (a) that they require payment of a penalty, or
  - (b) that they do not require payment of a penalty.
- (5) The Commissioners shall comply with subsection (4) during the period of 45 days beginning with the end of the period specified in that subsection; and for that purpose they shall consider—
  - (a) any representations made by the manufacturer during that period in such form and manner as the Commissioners may direct, and
  - (b) action taken by the manufacturer during that period.

### **7C Penalty for facilitating evasion: penalty notice**

- (1) A notice under section 7B(4)(a) (a “penalty notice”) must—

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- (a) specify the amount of the penalty which the manufacturer is required to pay, and
  - (b) state the grounds on which the Commissioners think that the manufacturer has failed to comply with the duty under section 7A(1).
- (2) The amount specified under subsection (1)(a) must not exceed £5 million; and in determining the amount to specify the Commissioners shall have regard to—
- (a) the nature or extent of the manufacturer's failure to comply with the duty under section 7A(1),
  - (b) action taken by the manufacturer to secure compliance with that duty,
  - (c) the content of the manufacturer's policy under section 7A(2)(b),
  - (d) compliance with that policy,
  - (e) action taken pursuant to any notice under section 7A(4),
  - (f) compliance by the manufacturer with any notice under section 7A(5),
  - (g) the number, size and nature of seizures of which the manufacturer has been given notice by virtue of section 7A(7)(a),
  - (h) the loss of revenue by way of duty under section 2, or VAT, in respect of the products seized, and
  - (i) any other matter that they think relevant.
- (3) A manufacturer who is given a penalty notice may require the Commissioners to review the decision to issue the notice; and—
- (a) a requirement must be imposed by notice in writing given to the Commissioners before the end of the period of 45 days beginning with the date of the penalty notice,
  - (b) the Commissioners shall comply with a requirement given in accordance with paragraph (a),
  - (c) the Commissioners shall confirm, vary or withdraw the penalty notice, and
  - (d) the Commissioners shall be taken to have confirmed the penalty notice unless, within the period of 45 days beginning with the date of the requirement to conduct the review, they have varied or withdrawn it by notice in writing to the manufacturer.
- (4) If following a requirement under subsection (3) the Commissioners confirm or vary the notice (or are taken to have confirmed it) the manufacturer may appeal to a VAT and duties tribunal.
- (5) The tribunal may—
- (a) cancel the penalty notice,
  - (b) reduce the penalty, or
  - (c) confirm the penalty notice.

#### **7D Sections 7A to 7C: supplemental**

- (1) Payment of a penalty imposed under section 7B(4)(a) shall not be allowed as a deduction in computing income, profits or losses for purposes of income tax or corporation tax.
- (2) A penalty may be enforced as a debt due to the Commissioners.

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- (3) In sections 7A to 7C and this section a reference to a manufacturer of cigarettes or hand-rolling tobacco includes a reference to a person who, in the opinion of the Commissioners—
    - (a) arranges to have cigarettes or hand-rolling tobacco manufactured, and
    - (b) is wholly or partly responsible for the initial supply of the products after manufacture.
  - (4) Where a manufacturer is a parent undertaking or a subsidiary undertaking (within the meaning of section 258 of the Companies Act 1985 (c. 6)) the Commissioners may—
    - (a) treat the parent and its subsidiaries as a single undertaking for the purpose of sections 7A to 7C and this section, and
    - (b) in particular, enforce a penalty imposed on the single undertaking as a debt owed by—
      - (i) the single undertaking,
      - (ii) the parent, or
      - (iii) any of the subsidiaries.
  - (5) A notice or guidance under section 7A(4) to (6)—
    - (a) may be issued to manufacturers generally or to one or more manufacturers or classes of manufacturer,
    - (b) may be expressed to apply to or in respect of manufacturers generally or only to or in respect of one or more specified manufacturers or classes of manufacturer,
    - (c) may make provision generally or only in relation to specified cases or circumstances,
    - (d) may make different provision in relation to different cases or circumstances, and
    - (e) may be varied, replaced or revoked.
  - (6) The Treasury may by order—
    - (a) amend the list in section 7B(2) or 7C(2) so as to—
      - (i) add an entry,
      - (ii) remove an entry, or
      - (iii) amend an entry;
    - (b) amend sections 7A to 7C and this section so as to alter the class of tobacco products in relation to which they apply.
  - (7) An order under subsection (6)—
    - (a) may include transitional, consequential or incidental provision,
    - (b) shall be made by statutory instrument,
    - (c) shall be laid before the House of Commons, and
    - (d) shall cease to have effect unless approved by resolution of the House of Commons within the period of 28 days beginning with the date on which it is laid (disregarding any period of dissolution or prorogation or of adjournment for more than four days).”
- (2) At the end of section 9 of the Tobacco Products Duty Act 1979 (c. 7) (regulations) (which becomes subsection (1)) add—
- “(2) Regulations under this Act—

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- (a) may enable the Commissioners to dispense with compliance with a provision of the regulations (whether absolutely or conditionally),
  - (b) may make provision generally or only in relation to specified cases or circumstances,
  - (c) may make different provision in relation to different cases or circumstances, and
  - (d) may include transitional, consequential or incidental provision.”
- (3) This section shall come into force in accordance with provision made by the Treasury by order.
- (4) An order under subsection (3)—
- (a) may include transitional, consequential or incidental provision, and
  - (b) shall be made by statutory instrument.

**Subordinate Legislation Made**

**P1** [S. 2\(3\)](#) power fully exercised: 1.10.2006 appointed by [{S.I. 2006/2367}](#), art. 2

*Alcoholic liquor duties*

**3 Rate of duty on beer**

- (1) In section 36(1AA)(a) of ALDA 1979 (rate of duty on beer) for “£12.92” substitute “£13.26”.
- (2) This section shall be deemed to have come into force at midnight on 26th March 2006.

**4 Rates of duty on wine and made-wine**

- (1) For Part 1 of the Table of rates of duty in Schedule 1 to ALDA 1979 (rates of duty on wine and made-wine) substitute—

**“PART 1**

WINE AND MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT

| <i>Description of wine or made-wine</i>  | <i>Rates of duty per hectolitre</i> |
|--|-------------------------------------|
|  | £                                   |
| Wine or made-wine of a strength not exceeding 4 per cent   | 53.06                               |
| Wine or made-wine of a strength exceeding 4 per cent but not exceeding 5.5 per cent                    | 72.95                               |
| Wine or made-wine of a strength exceeding 5.5 per cent but not exceeding 15 per cent and not sparkling | 172.17                              |

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|   |         |
|---|---------|
| Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent but less than 8.5 per cent                                     | 166.70  |
| Sparkling wine or sparkling made-wine of a strength of 8.5 per cent or of a strength exceeding 8.5 per cent but not exceeding 15 per cent | 220.54  |
| Wine or made-wine of a strength exceeding 15 per cent but not exceeding 22 per cent   | 229.55” |

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(2) This section shall be deemed to have come into force at midnight on 26th March 2006.

## **5 Repeal of provisions of ALDA 1979 of no practical utility etc**

- (1) The following provisions of ALDA 1979 shall cease to have effect—
- (a) section 12(4) (power to refuse or revoke distiller's licence where premises near to premises of a rectifier, registered brewer or vinegar-maker);
  - (b) section 14 (duty on spirits – attenuation charge);
  - (c) section 15(4) (provision of accommodation in distiller's warehouse);
  - (d) section 18(5) (power to refuse licence as a rectifier where premises near to premises of a distillery);
  - (e) section 21 (restrictions relating to rectifiers);
  - (f) section 24 (restriction on carrying on of other trades by distiller or rectifier);
  - (g) section 26 (importation and exportation of spirits);
  - (h) section 32 (restriction on transfer of British spirits in warehouses);
  - (i) section 35 (returns as to importation, manufacture, sale or use of alcohols);
  - (j) section 55A (wine and made-wine of a strength not exceeding 5.5%);
  - (k) section 67 (power to regulate keeping of dutiable alcoholic liquors by wholesalers and retailers);
  - (l) section 69 (miscellaneous provisions as to wholesalers and retailers of spirits);
  - (m) section 71 (penalty for mis-describing liquor as spirits);
  - (n) section 74 (liquor to be deemed wine or spirits); and
  - (o) section 82 (power to make regulations with respect to stills).
- (2) In consequence of the repeal of section 55A of ALDA 1979, that Act is amended as follows.
- (3) In section 54 (wine: charge of excise duty), in subsection (4A), for “wine to which section 55A below applies” substitute “ wine of a strength not exceeding 5.5 per cent ”.
- (4) In section 55 (made-wine: charge of excise duty), in subsections (4A) and (5)(d), for “made-wine to which section 55A below applies” substitute “ made-wine of a strength not exceeding 5.5 per cent ”.

### *Hydrocarbon oil duties*

## **6 Rates until 1st September 2006**

- (1) HODA 1979 is amended as follows.

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- (2) In section 6(1A) (hydrocarbon oil: rates of duty)—
- (a) in paragraph (a) (ultra low sulphur petrol) for “£0.4832” substitute “ £0.4710 ”,
  - (b) in paragraph (aa) (sulphur-free petrol) for “£0.4832” substitute “ £0.4710 ”,
  - (c) in paragraph (b) (light oil other than ultra low sulphur petrol and sulphur-free petrol) for “£0.5766” substitute “ £0.5620 ”,
  - (d) in paragraph (c) (ultra low sulphur diesel) for “£0.4832” substitute “ £0.4710 ”,
  - (e) in paragraph (ca) (sulphur-free diesel) for “£0.4832” substitute “ £0.4710 ”, and
  - (f) in paragraph (d) (heavy oil other than ultra low sulphur diesel and sulphur-free diesel) for “£0.5465” substitute “ £0.5327 ”.
- (3) In section 6AA(3) (biodiesel) for “£0.2832” substitute “ £0.2710 ”.
- (4) In section 6AD(3) (bioethanol) for “£0.2832” substitute “ £0.2710 ”.
- (5) In section 8(3) (road fuel gas)—
- (a) in paragraph (a) for “£0.1080” substitute “ £0.0900 ”, and
  - (b) in paragraph (b) for “£0.1270” substitute “ £0.0900 ”.
- (6) In section 13A(1) (rebate on unleaded petrol) for “£0.0617” substitute “ £0.0601 ”.
- (7) The following statutory instruments shall cease to have effect—
- (a) the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2005 (S.I. 2005/1978),
  - (b) the Excise Duties (Road Fuel Gases) (Reliefs) Regulations 2005 (S.I. 2005/1979), and
  - (c) the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) (Amendment) Order 2005 (S.I. 2005/3330).

## 7 Rates from 1st September 2006

- (1) HODA 1979 is amended as follows.
- (2) In section 6(1A) (hydrocarbon oil: rates of duty)—
- (a) in paragraph (a) (ultra low sulphur petrol) for “£0.4710” substitute “ £0.4835 ”,
  - (b) in paragraph (aa) (sulphur-free petrol) for “£0.4710” substitute “ £0.4835 ”,
  - (c) in paragraph (b) (light oil other than ultra low sulphur petrol and sulphur-free petrol) for “£0.5620” substitute “ £0.5768 ”,
  - (d) in paragraph (c) (ultra low sulphur diesel) for “£0.4710” substitute “ £0.4835 ”,
  - (e) in paragraph (ca) (sulphur-free diesel) for “£0.4710” substitute “ £0.4835 ”, and
  - (f) in paragraph (d) (heavy oil other than ultra low sulphur diesel and sulphur-free diesel) for “£0.5327” substitute “ £0.5468 ”.
- (3) In section 6AA(3) (biodiesel) for “£0.2710” substitute “ £0.2835 ”.
- (4) In section 6AD(3) (bioethanol) for “£0.2710” substitute “ £0.2835 ”.



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- (5) In section 8(3) (road fuel gas)—
- (a) in paragraph (a) for “£0.0900” substitute “ £0.1081 ”, and
  - (b) in paragraph (b) for “£0.0900” substitute “ £0.1221 ”.
- (6) In section 11(1) (rebate on heavy oil)—
- (a) in paragraph (a) for “£0.0604” substitute “ £0.0729 ”,
  - (b) in paragraph (b) for “£0.0644” substitute “ £0.0769 ”, and
  - (c) in paragraph (ba) for “£0.0644” substitute “ £0.0769 ”.
- (7) In section 13A(1) (rebate on unleaded petrol) for “£0.0601” substitute “ £0.0617 ”.
- (8) In section 14(1) (rebate on light oil for use as furnace oil) for “£0.0604” substitute “ £0.0729 ”.
- (9) This section comes into force on 1st September 2006.

## **8 Road vehicles**

After section 27(1A) of HODA 1979 (interpretation) insert—

- “(1B) The Treasury may by order made by statutory instrument amend Schedule 1 to this Act so as to—
- (a) add a class of excepted vehicle,
  - (b) remove a class of excepted vehicle, or
  - (c) redefine a class of excepted vehicle.

(1C) Section 2A(2) and (3) above shall apply to an order under subsection (1B).”

### *Betting and gaming duties*

## **9 General betting duty: gaming machines**

- (1) In section 2(2) of the Betting and Gaming Duties Act 1981 (c. 63) (general betting duty: exemptions) after paragraph (c) add—

“, or

- (d) a bet made using a gaming machine, within the meaning of section 23 of the Value Added Tax Act 1994.”

- (2) This section shall have effect in respect of anything done on or after 6th December 2005 (with the reference to section 23 of the Value Added Tax Act 1994 being a reference to that definition as it is treated as having effect in relation to things done on or after that date by virtue of section 16(6) and (7) below).

## **10 Rates of gaming duty**

- (1) For the Table in section 11(2) of FA 1997 (rates of gaming duty) substitute—

“TABLE

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*Part of gross gaming yield*

*Rate*

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|                     |                |
|---------------------|----------------|
| The first £546,500  | 2.5 per cent.  |
| The next £1,212,500 | 12.5 per cent. |
| The next £1,212,500 | 20 per cent.   |
| The next £2,124,000 | 30 per cent.   |
| The remainder       | 40 per cent.”  |

- (2) This section has effect in relation to accounting periods beginning on or after 1st April 2006.

### *Amusement machine licence duty*

## 11 Definition of “gaming machine”

- (1) For section 25(1) to (1B) of the Betting and Gaming Duties Act 1981 (c. 63) (amusement machine licence duty: definition of “amusement machine”) substitute—

“(1) A machine is an amusement machine for the purposes of this Act if it is—

- (a) a gaming machine, and
- (b) a prize machine.

(1A) In this Act “gaming machine” means a machine that is a gaming machine for the purposes of section 23 of the Value Added Tax Act 1994 (c. 23).”

- (2) In section 25(1C) of the Betting and Gaming Duties Act 1981 (“prize machine”) for “an amusement machine is a prize machine” substitute “a machine is a prize machine”.
- (3) In Schedule 3 to the Betting and Gaming Duties Act 1981 (bingo duty) omit paragraph 6 (machine bingo).
- (4) Subsections (1) and (2) shall have effect in relation to the provision of a machine on or after 1st August 2006.
- (5) Subsection (3) shall have effect in relation to accounting periods beginning on or after 1st August 2006.

## 12 Classes of machine and rates of duty

- (1) For section 21(3AA) to (3E) of the Betting and Gaming Duties Act 1981 (c. 63) (special licences and excepted machines) substitute—

“(4) A special amusement machine licence shall be granted only—

- (a) for a small prize machine,
- (b) if conditions prescribed by the Commissioners by regulations are satisfied in relation to the application for the licence, the applicant and the machine, and
- (c) for a period of twelve months.

- (5) The following are excepted machines—
- (a) machines that are not gaming machines,
  - (b) a gaming machine in respect of which—

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- (i) the cost of a single game does not exceed 30p,
  - (ii) the maximum value of the prize for winning a single game does not exceed £8, and
  - (iii) the maximum cash component of the prize for winning a single game does not exceed £5,
  - (c) a gaming machine in respect of which—
    - (i) the cost of a single game does not exceed 10p, and
    - (ii) the maximum value of the prize for winning a single game does not exceed £5, and
  - (d) two-penny machines.”
- (2) In section 22(2) of that Act (gaming machines) paragraph (b) shall cease to have effect.
- (3) For section 23(2) and (3) of that Act (rates) substitute—
- “(2) The appropriate amount for each machine shall be determined in accordance with the following Table by reference to—
- (a) the period for which the licence is granted, and
  - (b) the machine's category determined in accordance with subsection (3).

| <i>(1)</i><br><i>Months for which licence granted</i> | <i>(2)</i><br><i>Category A</i> | <i>(3)</i><br><i>Category B1</i> | <i>(4)</i><br><i>Category B2</i> | <i>(5)</i><br><i>Category B3</i> | <i>(6)</i><br><i>Category B4</i> | <i>(7)</i><br><i>Category C</i> |
|---|---------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|---------------------------------|
| 1   | £435                            | £220                             | £170                             | £170                             | £155                             | £65                             |
| 2   | £875                            | £435                             | £345                             | £345                             | £310                             | £130                            |
| 3   | £1310                           | £655                             | £515                             | £515                             | £465                             | £195                            |
| 4   | £1750                           | £875                             | £690                             | £690                             | £625                             | £255                            |
| 5   | £2185                           | £1095                            | £860                             | £860                             | £780                             | £320                            |
| 6   | £2625                           | £1310                            | £1030                            | £1030                            | £935                             | £385                            |
| 7   | £3060                           | £1530                            | £1205                            | £1205                            | £1090                            | £450                            |
| 8   | £3500                           | £1750                            | £1375                            | £1375                            | £1245                            | £515                            |
| 9   | £3935                           | £1970                            | £1545                            | £1545                            | £1400                            | £580                            |
| 10  | £4375                           | £2185                            | £1720                            | £1720                            | £1555                            | £645                            |
| 11  | £4810                           | £2405                            | £1890                            | £1890                            | £1715                            | £705                            |
| 12  | £5000                           | £2500                            | £1965                            | £1965                            | £1780                            | £735                            |

- (3) The categories of gaming machine are as follows—
- Category A – a gaming machine which is not within another category.
- Category B1 – a gaming machine which is not within a lower category and in respect of which—
- (i) the cost of a single game does not exceed £2, and

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- (ii) the maximum value of the prize for winning a single game does not exceed £4,000.

Category B2 – a gaming machine which is not within a lower category and in respect of which—

- (i) the cost of a single game does not exceed £100, and
- (ii) the maximum value of the prize for winning a single game does not exceed £500.

Category B3 – a gaming machine which is not within a lower category and in respect of which—

- (i) the cost of a single game does not exceed £1, and
- (ii) the maximum value of the prize for winning a single game does not exceed £500.

Category B4 – a gaming machine which is not within a lower category and in respect of which—

- (i) the cost of a single game does not exceed £1, and
- (ii) the maximum value of the prize for winning a single game does not exceed £250.

Category C—

- (i) a gaming machine in respect of which the cost of a single game does not exceed 5p, and
- (ii) a gaming machine in respect of which—
  - (a) the cost of a single game does not exceed 50p, and
  - (b) the maximum value of the prize for winning a single game does not exceed £25.

- (4) Where a machine offers more than one class of game, it falls within a category only if it satisfies the requirements of that category in respect of each class.

- (5) Where a prize is anything other than money its value for the purposes of this section is—

- (a) in the case of a voucher or token that may be exchanged for, or used in place of, an amount of money, that amount,
- (b) in the case of a voucher or token that does not fall within paragraph (a) and that may be exchanged for something other than money, the cost that the person providing the machine would incur in obtaining that thing from a person not connected with him (within the meaning of section 839 of the Income and Corporation Taxes Act 1988), and
- (c) in any other case, the cost that the person providing the machine would incur in obtaining the prize from a person not connected with him (within that meaning).

- (6) For the purposes of subsection (3) Category A is the highest category and Category C is the lowest.”

- (4) For section 25(4) to (7) of the Betting and Gaming Duties Act 1981 (c. 63) substitute—

“(4) A machine which has a number of individual playing positions allowing persons to play simultaneously (whether or not participating in the same

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- game) shall be treated for the purposes of sections 21 to 24 as that number of separate machines.”
- (5) Section 25A of that Act (power to modify definitions) shall cease to have effect.
- (6) In section 26(2) of that Act (supplemental) the following shall cease to have effect—
- (a) the definition of “ video machine ”, and
  - (b) in the definition of “two-penny machine”, the words from “and “five-penny machine”” to the end.
- (7) Paragraphs 2 and 3 of Schedule 4 to that Act (exemptions) shall cease to have effect.
- (8) Subsections (1) to (7) shall have effect in relation to the grant of an amusement machine licence on or after 1st August 2006.
- (9) An amusement machine licence granted before that time shall continue to have effect (for which purpose the Betting and Gaming Duties Act 1981 shall have effect without the amendments effected by this section).
- (10) But subsection (9) shall not apply in relation to machines which become gaming machines by virtue of section 11 of this Act.
- (11) For the purpose of the application of Schedule 4A to that Act (default licences) in respect of a period before 1st August 2006 no account shall be taken of an amendment effected by subsections (1) to (7) above or by section 11 above.

#### *Vehicle excise duty*

### **13 Rates**

- (1) Schedule 1 to VERA 1994 (annual rates of duty) is amended as follows.
- (2) In paragraph 1(2) (general rate of duty), for “£170” substitute “ £175 ”.
- (3) For paragraph 1B (rates for light passenger vehicles) substitute—

“1B

The annual rate of vehicle excise duty applicable to a vehicle to which this Part of this Schedule applies shall be determined in accordance with Table A, where the vehicle is first registered before 23rd March 2006, or Table B, where the vehicle is first registered on or after that date, by reference to—

- (a) the applicable CO<sub>2</sub> emissions figure, and
- (b) whether the vehicle qualifies for the reduced rate of duty, or is liable to the standard rate or the premium rate of duty.

Table A: Vehicles first registered before 23rd March 2006

| <i>CO<sub>2</sub> emissions figure</i> |                      | <i>Rate</i>         |                      |                     |
|--|----------------------|---------------------|----------------------|---------------------|
| <i>(1)</i>                             | <i>(2)</i>           | <i>(3)</i>          | <i>(4)</i>           | <i>(5)</i>          |
| <i>Exceeding</i>                       | <i>Not exceeding</i> | <i>Reduced rate</i> | <i>Standard rate</i> | <i>Premium rate</i> |
| g/km                                   | g/km                 | £                   | £                    | £                   |

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|     |     |     |     |     |
|-----|-----|-----|-----|-----|
| 100 | 120 | 30  | 40  | 50  |
| 120 | 150 | 90  | 100 | 110 |
| 150 | 165 | 115 | 125 | 135 |
| 165 | 185 | 140 | 150 | 160 |
| 185 |     | 180 | 190 | 195 |

Table B: Vehicles first registered on or after 23rd March 2006

| <i>CO<sub>2</sub> emissions figure</i> |                      | <i>Rate</i>         |                      |                     |
|--|----------------------|---------------------|----------------------|---------------------|
| <i>(1)</i>                             | <i>(2)</i>           | <i>(3)</i>          | <i>(4)</i>           | <i>(5)</i>          |
| <i>Exceeding</i>                       | <i>Not exceeding</i> | <i>Reduced rate</i> | <i>Standard rate</i> | <i>Premium rate</i> |
| g/km                                   | g/km                 | £                   | £                    | £                   |
| 100                                    | 120                  | 30                  | 40                   | 50                  |
| 120                                    | 150                  | 90                  | 100                  | 110                 |
| 150                                    | 165                  | 115                 | 125                  | 135                 |
| 165                                    | 185                  | 140                 | 150                  | 160                 |
| 185                                    | 225                  | 180                 | 190                  | 195                 |
| 225                                    |                      | 200                 | 210                  | 215”                |

(4) In paragraph 1C (reduced rate for light passenger vehicles)—

(a) for sub-paragraph (2) substitute—

“(2) Condition A is that the vehicle—

(a) is constructed—

(i) so as to be propelled by a relevant type of fuel, or

(ii) so as to be capable of being propelled by any of a number of relevant types of fuel, or

(b) is constructed or modified—

(i) so as to be propelled by a prescribed type of fuel, or

(ii) so as to be capable of being propelled by any of a number of prescribed types of fuel,

and complies with any other requirements prescribed for the purposes of this condition.”, and

(b) after sub-paragraph (5) insert—

“(6) In this paragraph—

“bioethanol” has the meaning given in section 2AB of the Hydrocarbon Oil Duties Act 1979,

“relevant type of fuel” means—

(a) bioethanol, or

(b) a mixture of bioethanol and unleaded petrol, if the proportion of bioethanol by volume is at least 85%, and

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“unleaded petrol” has the meaning given in section 1(3C) of the Hydrocarbon Oil Duties Act 1979.

- (7) The Secretary of State may, with the consent of the Treasury, by regulations amend sub-paragraph (6).”
- (5) In paragraph 1J(a) (rates for light goods vehicles), for “£165” substitute “ £170 ”.
- (6) In paragraph 1K(a) (lower-emission vans), after “1st March 2003” insert “ and before 1st January 2007 ”.
- (7) In paragraph 2(1) (rates for motorcycles)—
- (a) in paragraph (b), for “£30” substitute “ £31 ”,
  - (b) in paragraph (c), for “£45” substitute “ £46 ”, and
  - (c) in paragraph (d), for “£60” substitute “ £62 ”.
- (8) In Schedule 2 to VERA 1994 (exempt vehicles), after paragraph 24 insert—

**“Light passenger vehicles with low CO<sub>2</sub> emissions**

25 A vehicle is an exempt vehicle if—

- (a) it is a vehicle to which Part 1A of Schedule 1 applies, and
  - (b) the applicable CO<sub>2</sub> emissions figure (as defined in paragraph 1A(3) and (4) of that Schedule) for the vehicle does not exceed 100 g/km.”
- (9) Subsection (8) comes into force on 23rd March 2006; but nothing in that subsection has the effect that a nil licence is required to be in force in respect of a vehicle while a vehicle licence is in force in respect of it.
- (10) The rest of this section has effect in relation to licences taken out on or after that date.

**14 Reduced pollution certificates**

In section 61B of VERA 1994 (reduced pollution certificates), for subsection (2) substitute—

“(2) For the purposes of this Act, the reduced pollution requirements are satisfied with respect to a vehicle at any time if, at that time, prescribed requirements relating to the vehicle's emissions are satisfied as a result of—

- (a) the design, construction or equipment of the vehicle as manufactured; or
- (b) adaptations of a prescribed description having been made to the vehicle after a prescribed date.

(2A) Different requirements may be prescribed under subsection (2) for vehicles first registered at different times.”

**15 Late renewal supplement**

In VERA 1994, after section 7B insert—

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### **“7C Recovery of section 7A supplements: Scotland**

- (1) The Secretary of State may by regulations provide for the recovery of supplement that has become payable under section 7A by diligence authorised by summary warrant.
- (2) Regulations under subsection (1) may, in particular, provide—
  - (a) for such summary warrants—
    - (i) to be granted by the sheriff on the application of the Secretary of State; and
    - (ii) to authorise any of the diligences mentioned in subsection (3);
  - (b) for such applications to be accompanied by a certificate mentioned in subsection (4); and
  - (c) for the fees and outlays of sheriff officers incurred in executing such summary warrants to be chargeable against the debtor.
- (3) The diligences referred to in subsection (2)(a)(ii) are—
  - (a) an attachment;
  - (b) an earnings arrestment;
  - (c) an arrestment and action of furthcoming or sale.
- (4) The certificate referred to in subsection (2)(b) is a certificate by the Secretary of State —
  - (a) stating that none of the persons specified in the application has paid the supplement due;
  - (b) stating that payment of the amount due from each such person has been demanded from him;
  - (c) stating whether in response to that demand any such person disputes liability to pay; and
  - (d) specifying the amount due from and unpaid by each such person.
- (5) No fee shall be chargeable by the sheriff officer against the debtor for—
  - (a) collecting; or
  - (b) accounting to the Secretary of State for,
 

sums paid to him by the debtor in respect of the amount owing.
- (6) No summary warrant for recovery of supplement payable under section 7A may be granted against a person if—
  - (a) he disputes liability to pay; or
  - (b) an action for payment to recover such supplement from him has already been raised.
- (7) Failure to respond to a demand to pay shall not be taken to mean liability to pay is disputed.
- (8) An action for payment to recover supplement payable under section 7A may be raised against a person notwithstanding that a summary warrant has already been granted for recovery of such supplement from him but only if none of the diligences mentioned in subsection (3) has been executed against him.



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(9) Where such an action is raised, the summary warrant shall cease to have effect in relation to such person.

(10) This section extends to Scotland only.”

## PART 2

### VALUE ADDED TAX

#### *Gaming machines*

## 16 Gaming machines

(1) Section 23 of VATA 1994 (gaming machines) shall be amended as follows.

(2) In subsection (1)—

- (a) for “plays a game of chance” substitute “ gambles ”, and
- (b) omit “to play”.

(3) In subsection (2) for “playing” substitute “ gambling ”.

(4) In subsection (3)—

- (a) for “playing” substitute “ gambling ”, and
- (b) for “to play” substitute “ to use ”.

(5) For subsection (4) substitute—

“(4) In this section “gaming machine” means a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

(5) But—

- (a) a machine is not a gaming machine to the extent that it is designed or adapted for use to bet on future real events,
- (b) a machine is not a gaming machine to the extent that—
  - (i) it is designed or adapted for the playing of bingo, and
  - (ii) bingo duty is charged under section 17 of the Betting and Gaming Duties Act 1981 (c. 63) on the playing of that bingo, or would be charged but for paragraphs 1 to 5 of Schedule 3 to that Act, and
- (c) a machine is not a gaming machine to the extent that—
  - (i) it is designed or adapted for the playing of a real game of chance, and
  - (ii) the playing of the game is dutiable gaming for the purposes of section 10 of the Finance Act 1997 (c. 16), or would be dutiable gaming but for subsections (3) and (4) of that section.

(6) In this section—

- (a) a reference to gambling is a reference to—
  - (i) gaming within the meaning of section 6 of the Gambling Act 2005 (c. 19), and

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- (ii) betting within the meaning of section 9 of that Act,
  - (b) a reference to a machine is a reference to any apparatus which uses or applies mechanical power, electrical power or both,
  - (c) a reference to a machine being designed or adapted for a purpose includes a reference to a machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose,
  - (d) a reference to a machine being adapted includes a reference to computer software being installed on it,
  - (e) “real” has the meaning given by section 353(1) of that Act,
  - (f) “game of chance” has such meaning as may be prescribed by the Treasury by order,
  - (g) “bingo” means any version of that game, irrespective of by what name it is described.
- (7) The Treasury may by order amend subsections (4) to (6).”
- (6) This section shall have effect in relation to anything done on or after 6th December 2005.
- (7) In the application of section 23(5)(c) of VATA 1994 as substituted by this section in relation to anything done before 1st November 2006, “game of chance” shall have the same meaning as in the Gaming Act 1968 (c. 65).

### *Land*

## **17 Buildings and land**

- (1) The Treasury may by order—
- (a) make provision for substituting Schedule 10 to VATA 1994 (buildings and land) for the purpose of rewriting that Schedule with amendments;
  - (b) make provision amending sections 83 and 84 of that Act (appeals) in connection with any provision of that Schedule as so rewritten.
- (2) The Treasury may by order make provision repealing—
- (a) paragraph (b) of item 1 in Group 1 of Schedule 9 to VATA 1994 (exempt supplies of land not to include supplies made pursuant to a developmental tenancy, developmental lease or developmental licence), and
  - (b) Note (7) in that Group (meaning of developmental tenancy, developmental lease or developmental licence).
- The power conferred by this subsection is not to be regarded as affecting in any way the power to vary Schedule 9 to that Act conferred by section 31(2) of that Act.
- (3) The Treasury may by order make provision repealing—
- (a) section 26 of FA 1995 (co-owners etc of buildings and land), and
  - (b) the enactments inserted by that section (section 51A of VATA 1994 and paragraph 8(2) and (3) of Schedule 10 to that Act).
- (4) Any power to make an order under this section includes power—
- (a) to make any provision that might be made by an Act, and

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- (b) to make incidental, consequential, supplemental, or transitional provision or savings.
- (5) The consequential provision that may be made under subsection (4)(b) includes provision amending any Act or any instrument made under any Act.
- (6) Any order under this section—
  - (a) is to be made by statutory instrument,
  - (b) must be laid before the House of Commons, and
  - (c) unless approved by that House before the end of the period of 28 days beginning with the date on which it is made, ceases to have effect at the end of that period.
- (7) But, if an order so ceases to have effect, this does not affect—
  - (a) anything previously done under the order, or
  - (b) the making of a new order.
- (8) In reckoning the period of 28 days no account is to be taken of any time—
  - (a) during which Parliament is dissolved or prorogued, or
  - (b) during which the House of Commons is adjourned for more than 4 days.

*Imported works of art etc*

**18 Value of imported works of art etc: auctioneer's commission**

- (1) Section 21 of VATA 1994 (value of imported goods) is amended as follows.
- (2) In subsection (2) (value of imported goods to include taxes and expenses), after “shall” insert “ (subject to subsection (2A) below) ”.
- (3) After subsection (2) insert—
  - “(2A) Where—
    - (a) any goods falling within subsection (5) below are sold by auction at a time when they are subject to the procedure specified in subsection (2B) below, and
    - (b) arrangements made by or on behalf of the purchaser of the goods following the sale by auction result in the importation of the goods from a place outside the member States,the value of the goods shall not be taken for the purposes of this Act to include, in relation to that importation, any commission or premium payable to the auctioneer in connection with the sale of the goods.
- (2B) That procedure is the customs procedure for temporary importation with total relief from import duties provided for in Articles 137 to 141 of Council Regulation 2913/92/EEC establishing the Community Customs Code.”
- (4) Subsections (1) to (3) come into force on such day as the Treasury may by order made by statutory instrument appoint.

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#### Commencement Information

- II S. 18 wholly in force at 1.9.2006; s. 18(4) in force at Royal Assent; s. 18(1)-(3) in force (1.9.2006) by S.I. 2006/2149, art. 2

### *Avoidance and fraud*

## 19 Missing trader intra-community fraud

- (1) After section 55 of VATA 1994 (customers to account for tax on supplies of gold etc) insert—

### **“55A Customers to account for tax on supplies of goods of a kind used in missing trader intra-community fraud**

- (1) Subsection (3) applies if—
- (a) a taxable (but not a zero-rated) supply of goods (“the relevant supply”) is made to a person (“the recipient”),
  - (b) the relevant supply is of goods to which this section applies (see subsection (9)),
  - (c) the relevant supply is not an excepted supply (see subsection (10)), and
  - (d) the total value of the relevant supply, and of corresponding supplies made to the recipient in the month in which the relevant supply is made, exceeds £1,000 (“the disregarded amount”).
- (2) For this purpose a “corresponding supply” means a taxable (but not a zero-rated) supply of goods which—
- (a) is a supply of goods to which this section applies, and
  - (b) is not an excepted supply.
- (3) The relevant supply, and the corresponding supplies made to the recipient in the month in which the relevant supply is made, are to be treated for the purposes of Schedule 1—
- (a) as taxable supplies of the recipient (as well as taxable supplies of the person making them), and
  - (b) in so far as the recipient is supplied in connection with the carrying on by him of any business, as supplies made by him in the course or furtherance of that business,
- but the relevant supply, and those corresponding supplies, are to be so treated only in so far as their total value exceeds the disregarded amount.
- (4) Nothing in subsection (3)(b) requires any supply to be disregarded for the purposes of Schedule 1 on the grounds that it is a supply of capital assets of the recipient's business.
- (5) For the purposes of subsections (1) and (3), the value of a supply is determined on the basis that no VAT is chargeable on the supply.
- (6) If—

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- (a) a taxable person makes a supply of goods to a person (“the recipient”) at any time,
  - (b) the supply is of goods to which this section applies and is not an excepted supply, and
  - (c) the recipient is a taxable person at that time and is supplied in connection with the carrying on by him of any business,it is for the recipient, on the supplier's behalf, to account for and pay tax on the supply and not for the supplier.
- (7) The relevant enforcement provisions apply for the purposes of this section, in relation to any person required under subsection (6) to account for and pay any VAT, as if that VAT were VAT on a supply made by him.
- (8) For this purpose “the relevant enforcement provisions” means so much of—
  - (a) this Act and any other enactment, and
  - (b) any subordinate legislation,as has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT.
- (9) For the purposes of this section, goods are goods to which this section applies if they are of a description specified in an order made by the Treasury.
- (10) For the purposes of this section, an “excepted supply” means a supply which is of a description specified in, or determined in accordance with, provision contained in an order made by the Treasury.
- (11) Any order made under subsection (10) may describe a supply of goods by reference to—
  - (a) the use which has been made of the goods, or
  - (b) other matters unrelated to the characteristics of the goods themselves.
- (12) The Treasury may by order substitute for the sum for the time being specified in subsection (1)(d) such greater sum as they think fit.
- (13) The Treasury may by order make such amendments of any provision of this Act as they consider necessary or expedient for the purposes of this section or in connection with this section.

An order under this subsection may confer power on the Commissioners to make regulations or exercise any other function, but no order may be made under this subsection on or after 22nd March 2009.
- (14) Any order made under this section (other than one under subsection (12)) may—
  - (a) make different provision for different cases, and
  - (b) contain supplementary, incidental, consequential or transitional provisions.”.
- (2) After section 26A of VATA 1994 (disallowance of input tax where consideration not paid) insert—

**“26AB Adjustment of output tax in respect of supplies under section 55A**

- (1) This section applies if—

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- (a) a person is, as a result of section 26A, taken not to have been entitled to any credit for input tax in respect of any supply, and
  - (b) the supply is one in respect of which the person is required under section 55A(6) to account for and pay VAT.
- (2) The person is entitled to make an adjustment to the amount of VAT which he is so required to account for and pay.
- (3) The amount of the adjustment is to be equal to the amount of the credit for the input tax to which the person is taken not to be entitled.
- (4) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.
- (5) Regulations under this section may in particular—
- (a) make provision for the manner in which, and the period for which, the adjustment is to be given effect,
  - (b) require the adjustment to be evidenced and quantified by reference to such records and other documents as may be specified by or under the regulations,
  - (c) require the person entitled to the adjustment to keep, for such period and in such form and manner as may be so specified, those records and documents,
  - (d) make provision for readjustments if any credit for input tax is restored under section 26A.
- (6) Regulations under this section may make different provision for different circumstances.”.
- <sup>F1</sup>(3) .....
- <sup>F2</sup>(4) .....
- (5) In section 69 of VATA 1994 (breaches of regulatory provisions), in subsection (1) (failure to comply with a requirement imposed under provisions mentioned in the paragraphs in that subsection), after paragraph (b) insert—
- “(ba) paragraph 2(3B) of Schedule 11; or”.
- (6) In section 97 of VATA 1994 (orders, rules and regulations), in subsection (4) (orders which cease to have effect unless approved by House of Commons), after paragraph (e) insert—
- “(ea) an order under section 55A(13);”.
- (7) In Schedule 11 to VATA 1994 (administration, collection and enforcement), in paragraph 2 (accounting for VAT and payment of VAT), after sub-paragraph (3) insert—
- “(3A) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—
- (a) specified in the regulations, or
  - (b) determined by the Commissioners in accordance with powers conferred by the regulations,

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of statements containing such particulars of supplies to which section 55A(6) applies in which the taxable persons are concerned, and of the persons concerned in those supplies, as may be prescribed.

(3B) Regulations under this paragraph may make provision, in relation to the first occasion on which a person makes a supply of goods to which section 55A(6) applies, for requiring the person to give to the Commissioners such notification of the supply at such time and in such form and manner as may be specified in the regulations.”.

(8) The amendments made by this section have effect in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint.

But no order may be made under this subsection on or after 22nd March 2009.

(9) An order under subsection (8) may contain transitional provision and savings.

#### Subordinate Legislation Made

**P2** S. 19(8) power fully exercised: 1.6.2007 appointed by {S.I. 2007/1419}, art. 2

#### Textual Amendments

**F1** S. 19(3) repealed (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 132(f)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

**F2** S. 19(4) repealed (31.12.2020) by Taxation (Cross-border Trade) Act 2018 (c. 22), s. 57(3), **Sch. 8 para. 132(f)** (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### **F3** 20 Power to inspect goods

#### Textual Amendments

**F3** S. 20 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), **Sch. 36 para. 92(i)** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

### **21 Directions to keep records where belief VAT might not be paid**

(1) VATA 1994 is amended as follows.

(2) After section 69A (breach of record-keeping requirements etc in relation to transactions in gold) insert—

#### **“69B Breach of record-keeping requirements imposed by directions**

(1) If any person fails to comply with a requirement imposed under paragraph 6A(1) of Schedule 11, the person is liable to a penalty.

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*Status: Point in time view as at 31/12/2020.*

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- (2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).
- (3) If any person fails to comply with a requirement to preserve records imposed under paragraph 6A(6) of Schedule 11, the person is liable to a penalty of £500.
- (4) If it appears to the Treasury that there has been a change in the value of money since—
- (a) the day on which the Finance Act 2006 is passed, or
  - (b) (if later) the last occasion when the power conferred by this subsection was exercised,
- they may by order substitute for the sums for the time being specified in subsections (2) and (3) such other sums as appear to them to be justified by the change.
- (5) But any such order does not apply to a failure which began before the date on which the order comes into force.
- (6) A failure by any person to comply with any requirement mentioned in subsection (1) or (3) does not give rise to a liability to a penalty under this section if the person concerned satisfies—
- (a) the Commissioners, or
  - (b) on appeal, a tribunal,
- that there is a reasonable excuse for the failure.
- (7) If by reason of conduct falling within subsection (1) or (3) a person—
- (a) is assessed to a penalty under section 60, or
  - (b) is convicted of an offence (whether under this Act or otherwise),
- that conduct does not also give rise to a penalty under this section.”.
- (3) In section 76(1) (assessment of amounts due by way of penalty, interest or surcharge) for “69A”, in both places, substitute “ 69B ”.
- (4) In section 83 (appeals)—
- (a) in paragraph (n) (penalties or surcharges by virtue of any of sections 59 to 69A) for “69A” substitute “ 69B ” and
  - (b) after paragraph (z) (conditions imposed by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 11) insert—
- “(zza) a direction under paragraph 6A of Schedule 11;”.
- (5) In section 84 (further provision relating to appeals) after subsection (7A) (appeals against directions mentioned in section 83(wa)) insert—
- “(7B) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(zza)—
- (a) the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for making the direction;
  - (b) the direction shall have effect pending the determination of the appeal.”.



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(6) In Schedule 11 (administration, collection and enforcement), after paragraph 6 (duty to keep records) insert—

- “6A (1) The Commissioners may direct any taxable person named in the direction to keep such records as they specify in the direction in relation to such goods as they so specify.
- (2) A direction under this paragraph may require the records to be compiled by reference to VAT invoices or any other matter.
- (3) The Commissioners may not make a direction under this paragraph unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying taxable supplies in respect of which the VAT chargeable might not be paid.
- (4) The taxable supplies in question may be supplies made by—
- (a) the person named in the direction, or
  - (b) any other person.
- (5) A direction under this paragraph—
- (a) must be given by notice in writing to the person named in it,
  - (b) must warn that person of the consequences under section 69B of failing to comply with it, and
  - (c) remains in force until it is revoked or replaced by a further direction.
- (6) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as they may require.
- (7) Sub-paragraphs (4) to (6) of paragraph 6 (preservation of information by means approved by the Commissioners) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- (8) This paragraph is without prejudice to the power conferred by paragraph 6(1) to make regulations requiring records to be kept.
- (9) Any records required to be kept by virtue of this paragraph are in addition to any records required to be kept by virtue of paragraph 6.”

## **22 Treatment of credit vouchers**

- (1) VATA 1994 is amended as follows.
- (2) In section 97 (orders, rules and regulations), in subsection (4) (orders which cease to have effect unless approved by House of Commons), after paragraph (f) insert—
- “(fa) an order under paragraph 3(4) of Schedule 10A;”.
- (3) In paragraph 3 of Schedule 10A (treatment of credit vouchers), after sub-paragraph (3) (circumstances in which consideration for supply of credit voucher not to be disregarded under sub-paragraph (2) for the purposes of Act) insert—
- “(4) The Treasury may by order specify other circumstances in which sub-paragraph (2) above does not apply.”.

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**PART 3**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

**CHAPTER 1**

INCOME TAX AND CORPORATION TAX: CHARGE AND RATE BANDS

*Income tax*

**23 Charge and rates for 2006-07**

Income tax shall be charged for the year 2006-07, and for that year—

- (a) the starting rate shall be 10%;
- (b) the basic rate shall be 22%;
- (c) the higher rate shall be 40%.

*Corporation tax*

**24 Charge and main rate for financial year 2007**

Corporation tax shall be charged for the financial year 2007 at the rate of 30%.

**<sup>F4</sup>25 Small companies' rate and fraction for financial year 2006**

.....

**Textual Amendments**

**F4** S. 25 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**26 Abolition of corporation tax starting rate and non-corporate distribution rate**

- (1) Section 13AA of ICTA (corporation tax starting rate) shall cease to have effect.
- (2) Section 13AB of ICTA (the non-corporate distribution rate), and Schedule A2 to that Act (supplementary provisions in relation to that rate), shall cease to have effect.
- (3) In section 13A of ICTA (close investment-holding companies), in subsection (1) (meaning of “close investment-holding company” for purposes of sections 13(1) and 13AA(8)), omit “or 13AA(8)”.

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

- (6) In paragraph 1(a) of Schedule 12 to FA 1989 (provision of information for the purposes of close companies provisions), for “13 to 13A” substitute “ 13, 13ZA, 13A ”.

*Status: Point in time view as at 31/12/2020.*

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- (7) In paragraph 8(1) of Schedule 18 to FA 1998 (tax calculation in company tax return), in the second step, omit “or 13AA(2)”>.
- (8) The amendments made by this section have effect for the financial year 2006 and subsequent financial years (but see also subsections (9) to (11)).
- (9) In the case of an accounting period (a “straddling period”)—
  - (a) beginning before 1st April 2006, and
  - (b) ending on or after that date,sections 13AA and 13AB of, and Schedule A2 to, ICTA (“the repealed provisions”) apply as if the different parts of the straddling period falling in the different financial years were separate accounting periods.
- (10) Where the rate of corporation tax charged on a company's basic profits for any such separate accounting period ending with 31st March 2006 is determined in accordance with any of the repealed provisions, section 13 of ICTA (small companies' relief) also so applies.
- (11) For the purpose of treating different parts of the straddling period as separate accounting periods in accordance with subsections (9) and (10), the profits and basic profits of the straddling period are to be apportioned between those separate accounting periods.

**Textual Amendments**

**F5** S. 26(4)(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**CHAPTER 2**

RELIEFS FOR BUSINESS

*Group relief*

**27 Group relief where surrendering company not resident in UK**

Schedule 1 (which makes provision in relation to group relief where the surrendering company is not resident in the United Kingdom) has effect.

*Research and development*

**<sup>F6</sup>28 Relief for research and development: subjects of clinical trials**

.....

**Textual Amendments**

**F6** S. 28 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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## 29 Claims for relief for research and development

Schedule 3 (which amends Schedule 18 to FA 1998 in connection with claims for tax relief for expenditure on research and development) has effect.

### *Capital allowances*

## <sup>F7</sup>30 Temporary increase in amount of first-year allowances for small enterprises

.....

### Textual Amendments

**F7** S. 30 omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), s. **75(4)(b)**

## CHAPTER 3

### FILMS AND SOUND RECORDINGS

### Modifications etc. (not altering text)

- C1** Pt. 3 Ch. 3 applied (with modifications) (29.3.2007) by [The Corporation Tax \(Taxation of Films\) \(Transitional Provisions\) Regulations 2007 \(S.I. 2007/1050\)](#), **reg. 3-12** (with effect reg. 1(2)) (as amended by Corporation Tax Act 2009 (c. 4), Sch. 2 para. 131)
- C2** Pt. 3 Ch. 3 power to apply (with modifications) conferred (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 2 para. 130** (with Sch. 2 Pts. 1, 2)

### *Introductory*

## <sup>F8</sup>31 Meaning of “film” and related expressions

.....

### Textual Amendments

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

## <sup>F8</sup>32 Meaning of “film production company”

.....

### Textual Amendments

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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**F833 Meaning of “film-making activities” etc**

.....

**Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F834 Meaning of “production expenditure” and related expressions**

.....

**Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F835 Meaning of “UK expenditure”**

.....

**Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F836 Meaning of “qualifying co-production” and “co-producer”**

.....

**Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Taxation of activities of film production company*

**F837 Taxation of activities of film production company**

.....

**Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

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### *Film tax relief*

#### **F838 Films qualifying for film tax relief**

.....

##### **Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **F839 Conditions of relief: intended theatrical release**

.....

##### **Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **F840 Conditions of relief: British film**

.....

##### **Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **F841 Conditions of relief: UK expenditure**

.....

##### **Textual Amendments**

**F8** Ss. 31-41 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 676, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

#### **42 Film tax relief: further provisions**

(1) Schedule 5 to this Act contains further provisions about film tax relief.

(2) In that Schedule—

<sup>F9</sup> .....

Part 2 provides for the certification of British films for the purposes of the relief;

Part 3 makes provision for claims for the relief;

<sup>F9</sup> .....

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**Textual Amendments**

- F9** Words in s. 42(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 677(a), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Film losses*

**F10 43 Films: restriction on use of losses while film in production**

.....

**Textual Amendments**

- F10** Ss. 43-45 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 678, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F10 44 Films: use of losses in later periods**

.....

**Textual Amendments**

- F10** Ss. 43-45 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 678, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F10 45 Films: terminal losses**

.....

**Textual Amendments**

- F10** Ss. 43-45 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 678, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Films: withdrawal of existing reliefs*

**46 Films: withdrawal of existing reliefs (corporation tax)**

- (1) Sections 40A to 40D of F(No.2)A 1992 (treatment of expenditure on production or acquisition of film) do not apply—
- (a) to production expenditure on a film that commences principal photography on or after [<sup>F11</sup>1st January 2007];
  - (b) to acquisition expenditure—
    - (i) on a film that commences principal photography on or after [<sup>F11</sup>1st January 2007], or
    - (ii) that is incurred on or after 1st October 2007 on a film (whenever made).

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- (2) Section 41 of that Act (preliminary expenditure) does not apply to expenditure incurred after the date on which this Act is passed.
- (3) Section 42 of that Act and section 48 of F(No.2)A 1997 (special reliefs for British films) do not apply—
  - (a) to production expenditure on a film that commences principal photography on or after [<sup>F11</sup>1st January 2007];
  - (b) to acquisition expenditure—
    - (i) on a film that commences principal photography on or after [<sup>F11</sup>1st January 2007], or
    - (ii) that is incurred on or after 1st October 2007.
- (4) References in this section to expenditure on the acquisition of a film, or to sums received from the disposal of a film, are to expenditure on the acquisition of, or sums received from the disposal of, the original master version of the film.
- (5) For this purpose—
  - (a) “original master version” means the original negative, tape or disc;
  - (b) references to the original master version of a film include the original master version of the film soundtrack (if any);
  - (c) references to the original master version include any rights in the original master version that are held or acquired with it.
- [<sup>F12</sup>(6) The provisions of sections 1181 to 1187 of CTA 2009 apply for the purposes of this section as if this section were contained in Part 15 of that Act.]

#### Textual Amendments

- F11** Words in s. 46(1)(a)(b)(i),(3)(a)(b)(i) substituted (29.12.2006) by The Finance Act 2006, Section 53(2) (Films and Sound Recordings: Power to alter Dates) Order 2006 (S.I. 2006/3265), {art. 2}
- F12** S. 46(6) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 679](#) (with [Sch. 2 Pts. 1, 2](#))

#### 47 Films: withdrawal of existing reliefs (income tax)

- (1) Sections 134 and 135 of ITTOIA 2005 (treatment of expenditure on production or acquisition of film) do not apply—
  - (a) to production expenditure on a film that commences principal photography on or after [<sup>F13</sup>1st January 2007] ;
  - (b) to acquisition expenditure—
    - (i) on a film that commences principal photography on or after [<sup>F13</sup>1st January 2007], or
    - (ii) that is incurred on or after 1st October 2007 on a film (whenever made).
- (2) Section 137 of that Act (preliminary expenditure) does not apply to expenditure incurred after the date on which this Act is passed.
- (3) Sections 138 to 144 of that Act (special reliefs for British films) do not apply—
  - (a) to production expenditure on a film that commences principal photography on or after [<sup>F13</sup>1st January 2007];



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- (b) to acquisition expenditure—
  - (i) on a film that commences principal photography on or after [<sup>F13</sup>1st January 2007], or
  - (ii) that is incurred on or after 1st October 2007.
- (4) References in this section to expenditure on the acquisition of a film, or to sums received from the disposal of a film, are to expenditure on the acquisition of, or sums received from the disposal of, the original master version of the film.
- (5) For this purpose—
  - (a) “original master version” means the original negative, tape or disc;
  - (b) references to the original master version of a film include the original master version of the film soundtrack (if any);
  - (c) references to the original master version include any rights in the original master version that are held or acquired with it.
- [<sup>F14</sup>(6) The provisions of sections 1181 to 1187 of CTA 2009 apply for the purposes of this section as if this section were contained in Part 15 of that Act.]

**Textual Amendments**

- F13** Words in s. 47(1)(a)(b)(i)(3)(a)(b)(i) substituted (29.12.2006) by The Finance Act 2006, Section 53(2) (Films and Sound Recordings: Power to alter Dates) Order 2006 (S.I. 2006/3265), {art. 2}
- F14** S. 47(6) inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 679](#) (with [Sch. 2 Pts. 1, 2](#))

*Corporation tax treatment of sound recordings*

**<sup>F15</sup>48 Sound recordings: revenue nature of expenditure**

.....

**Textual Amendments**

- F15** Ss. 48-50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 680](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**<sup>F15</sup>49 Sound recordings: allocation of expenditure**

.....

**Textual Amendments**

- F15** Ss. 48-50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 680](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**<sup>F15</sup>50 Sound recordings: interpretation**

.....

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**Textual Amendments**

**F15** Ss. 48-50 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 680, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Supplementary provisions*

**<sup>F16</sup>51 Corporation tax: films and sound recordings as intangible fixed assets**

.....

**Textual Amendments**

**F16** S. 51 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**<sup>F17</sup>52 Films: application of provisions to certain films already in production**

.....

**Textual Amendments**

**F17** S. 52 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 681, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**53 Films and sound recordings: commencement and power to alter dates**

(1) The provisions of this Chapter come into force on such day as the Treasury may appoint by order.

<sup>F18</sup>(2) .....

**Subordinate Legislation Made**

**P3** S. 53(1) power fully exercised: 1.1.2007 appointed by {[S.I. 2006/3399](#)}, art. 2

**Textual Amendments**

**F18** S. 53(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 682, **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**CHAPTER 4**

CHARITIES

**<sup>F19</sup>54 Transactions with substantial donors**

.....

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F19** Ss. 54-58 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F19 55 Non-charitable expenditure**

.....

**Textual Amendments**

**F19** Ss. 54-58 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F19 56 Trade profits**

.....

**Textual Amendments**

**F19** Ss. 54-58 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F19 57 Gift aid relief for companies wholly owned by one or more charities**

.....

**Textual Amendments**

**F19** Ss. 54-58 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F19 58 Extension of restrictions on gift aid payments by close companies**

.....

**Textual Amendments**

**F19** Ss. 54-58 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

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## CHAPTER 5

### PERSONAL TAXATION

#### *Cars*

#### **F20 59** Cars with a CO<sub>2</sub> emissions figure

.....

#### **Textual Amendments**

**F20** S. 59 omitted (with effect in accordance with s. 59(5) of the amending Act) by virtue of [Finance Act 2010 \(c. 13\)](#), s. 59(4)(a)

#### *Mobile telephones and computers*

#### **60** Mobile telephones

- (1) In section 266(2) of ITEPA 2003 (exemption of non-cash vouchers for exempt benefits), insert at the end “or
  - (d) section 319 (mobile telephones).”
- (2) In section 267(2) of that Act (exemption of credit-tokens used for exempt benefits), after paragraph (f) insert—
  - “(g) section 319 (mobile telephones).”
- (3) For section 319 of that Act (employment income: exemption for mobile telephones) substitute—

#### **“319 Mobile telephones**

- (1) No liability to income tax arises by virtue of section 62 (general definition of earnings) or Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of one mobile telephone for an employee without any transfer of property in it.
- (2) In this section “mobile telephone” means telephone apparatus which—
  - (a) is not physically connected to a land-line, and
  - (b) is not used only as a wireless extension to a telephone which is physically connected to a land-line,
 or any thing which may be used in such apparatus for the purpose of gaining access to, or using, a public electronic communications service.
- (3) In this section the reference to the provision of a mobile telephone includes a reference to the provision, together with the mobile telephone provided, of access to, or the use of, a public electronic communications service by means of one mobile telephone number.
- (4) For the purposes of subsection (2) “telephone apparatus” means wireless telegraphy apparatus designed or adapted for the primary purpose of

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transmitting and receiving spoken messages and used in connection with a public electronic communications service.”

- (4) This section has effect for the year 2006-07 and subsequent years of assessment.
- (5) But the amendment made by subsection (3) does not cause any liability to income tax to arise in respect of the provision of a mobile telephone for an employee, or a member of an employee's family or household, if the mobile telephone was first provided to him before 6th April 2006.

## **61 Computer equipment**

- (1) Omit section 320 of ITEPA 2003 (employment income: limited exemption for computer equipment).
- (2) This section has effect for the year 2006-07 and subsequent years of assessment.
- (3) But it does not cause any liability to income tax to arise in respect of the provision of computer equipment by making it available to an employee, or a member of an employee's family or household, if the computer equipment was first made available to him before 6th April 2006.

### *Eye care*

## **62 Exemption for employees' eye tests and special glasses**

- (1) Part 4 of ITEPA 2003 (employment income: exemptions) is amended as follows.
- (2) In Chapter 11 (miscellaneous exemptions), before section 321 (and the cross-heading “*Awards and gifts*”) insert—

*“Eye tests and special corrective appliances*

### **320A Eye tests and special corrective appliances**

- (1) No liability to income tax arises in respect of the provision for an employee of—
    - (a) an eye and eyesight test, or
    - (b) special corrective appliances that an eye and eyesight test shows are necessary,if conditions A and B are met.
  - (2) Condition A is that the provision of the test or appliances is required by regulations made under the Health and Safety at Work etc. Act 1974.
  - (3) Condition B is that tests and appliances of the kind mentioned in subsection (1) are made available generally to those employees of the employer in question for whom they are required to be provided by the regulations.”
- (3) In section 266 (exemption of non-cash vouchers for exempt benefits), at the end of subsection (3) insert “, or
    - (f) section 320A (eye tests and special corrective appliances).”

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- (4) In section 267 (exemption of credit-tokens used for exempt benefits), at the end of subsection (2) insert “, and  
 (h) section 320A (eye tests and special corrective appliances).”
- (5) This section has effect for the year 2006-07 and subsequent years of assessment.

### *Vouchers and tokens*

## 63 Power to exempt use of vouchers or tokens to obtain exempt benefits

In Chapter 4 of Part 3 of ITEPA 2003 (taxable benefits: vouchers and credit-tokens), after section 96 insert—

### **“96A Power to exempt use of non-cash vouchers or credit-tokens to obtain exempt benefits**

- (1) The Treasury may by regulations provide for exemption from any liability that would otherwise arise by virtue of this Chapter in respect of—
- (a) non-cash vouchers which are or can be used to obtain specified exempt benefits, or which evidence an employee's entitlement to specified exempt benefits;
  - (b) credit-tokens which are used to obtain specified exempt benefits.
- (2) In this section—
- “exempt benefit” means a benefit the direct provision of which is exempted from liability to income tax by a provision of Part 4 (employment income: exemptions), and
- “specified” means specified in the regulations.
- (3) Regulations under this section may operate by amending section 266 (exemption of non-cash vouchers for exempt benefits) or section 267 (exemption of credit-tokens used for exempt benefits).”

### *Holocaust victims*

## 64 Payments to or in respect of victims of National-Socialist persecution

- (1) In section 369 of ITTOIA 2005 (charge to tax on interest), in subsection (3) (non-exhaustive list of exemptions), in paragraph (e) (exemptions under sections 749 to 756)—
- (a) for “756” substitute “ 756A ”, and
  - (b) for “and interest on certain foreign currency securities)” substitute “ , certain foreign currency securities and interest on certain deposits of victims of National-Socialist persecution) ”.
- (2) After section 756 of ITTOIA 2005 (which securities and loans are foreign currency ones for section 755) insert—

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### **“756A Interest on certain deposits of victims of National-Socialist persecution**

- (1) No liability to income tax arises in respect of interest which is paid—
    - (a) to or in respect of a victim of National-Socialist persecution,
    - (b) under a qualifying compensation scheme, and
    - (c) for a qualifying purpose in respect of a qualifying deposit of the victim.
  - (2) A scheme is a qualifying compensation scheme if—
    - (a) it is constituted (whether under the law of any part of the United Kingdom or elsewhere) by an instrument in writing, and
    - (b) the purpose of the scheme, or one of its purposes, is to make payments of interest to or in respect of victims of National-Socialist persecution for qualifying purposes in respect of qualifying deposits.
  - (3) Interest is paid for a qualifying purpose in respect of a deposit if—
    - (a) it is paid for meeting a liability in respect of interest on the deposit, or
    - (b) it is paid for compensating for the effects of inflation on the deposit.
  - (4) In relation to a victim of National-Socialist persecution, a deposit is a qualifying deposit if it was made—
    - (a) by, or on behalf of, the victim, and
    - (b) on or before 5th June 1945.
  - (5) In this section “deposit” has the meaning given by section 481(3) of ICTA.”.
- (3) In section 783 of ITTOIA 2005 (general disregard of exempt income for income tax purposes)—
- (a) for subsection (2) (exception to general disregard) substitute—
    - “(2) There are exceptions to this in the following cases.
      - (2A) Interest on deposits in ordinary accounts with the National Savings Bank which is exempt under this Part from every charge to income tax is not to be ignored for the purpose of providing information.
      - (2B) Interest paid to or in respect of victims of National-Socialist persecution which is so exempt is not to be ignored for the purposes of sections 17 and 18 of TMA 1970 (information provisions relating to interest).”, and
    - (b) in subsection (3) (subsection (2) without prejudice to other exceptions) for “This express exception to subsection (1) is” substitute “ These express exceptions to subsection (1) are ”.
- (4) After section 268 of TCGA 1992 (decorations for valour or gallant conduct) insert—

### **“268A Victims of National-Socialist persecution**

- (1) A gain accruing on a disposal is not a chargeable gain if it accrues on—
  - (a) a disposal of the right to receive the whole or any part of a qualifying payment in respect of National-Socialist persecution, or

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- (b) a disposal of an interest in any such right.
- (2) A payment is a qualifying payment in respect of National-Socialist persecution if it is payable as mentioned in paragraphs (a) to (c) of section 756A(1) of ITTOIA 2005 (income tax exemption for payments to or in respect of victims of National-Socialist persecution).
- (3) In this section “interest”, in relation to any right, means an interest as a co-owner of the right.
- (4) It does not matter—
  - (a) whether the right is owned jointly or in common, or
  - (b) whether or not the interests of the co-owners are equal.”.
- (5) If at any time before claims could have been made under any qualifying compensation scheme—
  - (a) a person beneficially entitled to a qualifying deposit has died, and
  - (b) no information in respect of that deposit was contained in any account relating to that deceased person under any provision of IHTA 1984,
 that deposit is to be ignored for all purposes of IHTA 1984.
- (6) For this purpose “qualifying compensation scheme” and “qualifying deposit” have the same meaning as in section 756A of ITTOIA 2005.
- (7) Subsection (2) has effect (and is deemed always to have had effect)—
  - (a) for the year 1996-97, and
  - (b) subsequent years of assessment.
- (8) Subsection (4) has effect (and is deemed always to have had effect) in relation to disposals made on or after 6th April 1996; but no loss accruing on a disposal made before 6th April 2006 is, as a result of that subsection, to cease to be an allowable loss.
- (9) In relation to any time before 6th April 2005 (the commencement of ITTOIA 2005)—
  - (a) the section inserted by subsection (2) is to be treated as if it were inserted into ICTA (and as if, in subsection (5) of that section, “of ICTA” were omitted), and
  - (b) any reference to that section in any enactment is to be read accordingly.
- (10) In relation to the year 2005-06 or any earlier year of assessment, all such adjustments are to be made as are required to give effect to the exemptions conferred as a result of this section.
- (11) But the adjustments are to be made only if the person entitled to the exemption makes a claim for the exemption on or before 31st January 2012.
- (12) The adjustments may be made by discharge or repayment of tax, the making of an assessment or otherwise.



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## CHAPTER 6

### THE LONDON OLYMPIC GAMES AND PARALYMPIC GAMES

#### 65 London Organising Committee

- (1) In this section “LOCOG” means the private company limited by guarantee incorporated on 22nd October 2004 with the Company Number 05267819 and with the name The London Organising Committee of the Olympic Games Limited.
- (2) LOCOG shall be exempt from corporation tax.
- (3) [<sup>F21</sup>The duties to deduct under Chapters 6, 7, 10 and 14 of Part 15 of ITA 2007 (deduction of income tax at source)] shall not apply to payments to LOCOG.
- (4) A claim may be made for any repayment of income tax required as a result of an exemption conferred by this section.
- (5) The Treasury may by regulations provide for subsections (2) to (4) to apply to a wholly-owned subsidiary of LOCOG (within the meaning of section 736 of the Companies Act 1985 (c. 6)) as they apply to LOCOG.
- (6) Subsection (7) applies if it appears to the Treasury—
  - (a) that LOCOG has been or may have been, or is or may be, directly or indirectly connected with another person, or
  - (b) has been or may have been, or is or may be, acting in association or co-operation with another person (whether by virtue of part-ownership, partnership, membership of a group or consortium or in any other way).
- (7) The Treasury may make regulations—
  - (a) restricting the application of a provision of this section to a specified extent;
  - (b) removing or restricting an exemption or relief under an enactment relating to corporation tax, income tax or capital gains tax;
  - (c) preventing a loss or expense of a specified kind from being used or treated in a specified way for purposes of corporation tax, income tax or capital gains tax;
  - (d) wholly or to a specified extent preventing an allowance from being claimed for purposes of corporation tax, income tax or capital gains tax;
  - (e) providing for a transfer of property to be disregarded, or treated in a specified way, for purposes of corporation tax, income tax or capital gains tax;
  - (f) providing for specified action taken by LOCOG or the other person to have, or not to have, a specified effect for purposes of corporation tax, income tax or capital gains tax;
  - (g) providing for an enactment relating to the treatment of groups of companies for purposes of corporation tax, income tax or capital gains tax to be wholly or partly disapplied or to be applied with modifications;
  - (h) making any other provision which appears to the Treasury to be expedient for the purpose of preventing this section from being used or relied upon otherwise than in connection with the functions of LOCOG under the Host City Contract;

and provision made under any of paragraphs (b) to (h) may relate to LOCOG or to the other person mentioned in subsection (6).

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- (8) If it appears to the Treasury that LOCOG has undertaken, is undertaking or may undertake activities other than in pursuance of the Host City Contract, the Treasury may make regulations restricting the application of a provision of this section to a specified extent.
- (9) Regulations under subsection (5) may include provision of a kind similar to that which may be made under subsection (7) or (8).

#### Textual Amendments

**F21** Words in s. 65(3) substituted (6.4.2007 with effect as mentioned in s. 1034(1)) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 612](#) (with transitional provisions and savings in [Sch. 2](#))

## 66 Section 65: supplementary

- (1) Regulations under section 65(5) to (8)—
- (a) may make provision which applies generally or only in specified cases or circumstances,
  - (b) may make different provision for different cases or circumstances,
  - (c) may have retrospective effect, and
  - (d) may include incidental, consequential or transitional provision.
- (2) Regulations under section 65 shall be made by statutory instrument.
- (3) Regulations under section 65(5)—
- (a) shall be subject to annulment in pursuance of a resolution of the House of Commons, or
  - (b) if they include provision by virtue of section 65(9), may not be made unless a draft has been laid before and approved by resolution of the House of Commons.
- (4) Regulations under section 65(7) or (8) may not be made unless a draft has been laid before and approved by resolution of the House of Commons.
- (5) In section 65 “the Host City Contract” has the meaning given by section 1 of the London Olympic Games and Paralympic Games Act 2006.
- (6) Section 65 shall be treated as having come into force on 22nd October 2004.
- (7) The Treasury may by order made by statutory instrument repeal section 65 and this section.

## 67 International Olympic Committee

- (1) The Treasury may make regulations—
- (a) providing for the International Olympic Committee to be treated for the purposes of corporation tax as not having a permanent establishment in the United Kingdom;
  - (b) providing for the International Olympic Committee not to be chargeable to income tax or capital gains tax;

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- (c) disapplying [<sup>F22</sup>the duties to deduct under Chapters 3, 6, 7, 10 and 14 of Part 15 of ITA 2007 (deduction of income tax at source)] to payments to the International Olympic Committee.
- (2) The Treasury may make regulations—
- (a) providing for a specified person or class of person appearing to the Treasury to be owned or controlled by the International Olympic Committee to be treated for the purposes of corporation tax as not having a permanent establishment in the United Kingdom;
  - (b) providing for a specified person or class of person appearing to the Treasury to be owned or controlled by the International Olympic Committee not to be chargeable to income tax or capital gains tax;
  - (c) disapplying [<sup>F23</sup>the duties to deduct under Chapters 3, 6, 7, 10 and 14 of Part 15 of ITA 2007 (deduction of income tax at source)] to payments to a specified person or class of person appearing to the Treasury to be owned or controlled by the International Olympic Committee.
- (3) Regulations under this section—
- (a) may make provision which applies generally or only in specified cases or circumstances,
  - (b) may make different provision for different cases or circumstances,
  - (c) may have retrospective effect, and
  - (d) may include incidental, consequential or transitional provision.
- (4) Regulations under this section—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) A claim may be made for any repayment of income tax required as a result of an exemption conferred under this section.

#### Textual Amendments

**F22** Words in s. 67(1)(c) substituted (6.4.2007 with effect as mentioned in s. 1034(1)) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 613\(a\)](#) (with transitional provisions and savings in [Sch. 2](#))

**F23** Words in s. 67(b)(c) substituted (6.4.2007 with effect as mentioned in s. 1034(1)) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 613\(b\)](#) (with transitional provisions and savings in [Sch. 2](#))

## 68 Competitors and staff

- (1) The Treasury may make regulations—
- (a) exempting specified classes of person from income tax in respect of specified classes of income arising from participation in London Olympic events;
  - (b) providing for specified classes of activity undertaken in connection with London Olympic events to be disregarded for purposes of corporation tax, income tax or capital gains tax;
  - (c) providing for specified classes of activity in connection with London Olympic events to be disregarded in determining for fiscal purposes whether a person has a permanent establishment in the United Kingdom;

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- (d) disapplying [<sup>F24</sup>the duties to deduct under Chapters 6, 7, 10 and 14 of Part 15 of ITA 2007 (deduction of income tax at source)] in consequence of provision made under paragraphs (a) to (c) above.
- (2) The regulations may specify classes of person wholly or partly by reference to—
- (a) residence outside the United Kingdom, determined in such manner as the regulations may provide;
  - (b) documents issued or authority given by such persons exercising functions in connection with the London Olympics as the regulations may provide.
- (3) Regulations under this section—
- (a) may make provision which applies generally or only in specified cases or circumstances,
  - (b) may make different provision for different cases or circumstances, and
  - (c) may include incidental, consequential or transitional provision.
- (4) Regulations under this section—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) In this section “London Olympic event” and “the London Olympics” have the meaning given by section 1 of the London Olympic Games and Paralympic Games Act 2006.

#### **Textual Amendments**

**F24** Words in s. 68(1)(d) substituted (6.4.2007 with effect as mentioned in s. 1034(1)) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034, [Sch. 1 para. 614](#) (with transitional provisions and savings in [Sch. 2](#))

## **CHAPTER 7**

### CHARGEABLE GAINS

#### *Capital losses*

**69** .....

<sup>F25</sup> .....

#### **Textual Amendments**

**F25** [S. 69](#) repealed (with effect in accordance with [s. 27](#) of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [s. 114](#), {[Sch. 27 Pt. 2\(2\) Note](#)}

## **70 Restrictions on companies buying losses or gains**

- (1) TCGA 1992 is amended as follows.
- (2) After section 184 insert—

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*“Restrictions on buying losses or gains etc*

**184A Restrictions on buying losses: tax avoidance schemes**

- (1) This section applies for the purposes of corporation tax in respect of chargeable gains if—
  - (a) at any time (“the relevant time”) there is a qualifying change of ownership in relation to a company (“the relevant company”) (see section 184C),
  - (b) a loss (a “qualifying loss”) accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),
  - (c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage (see section 184D), and
  - (d) the advantage involves the deduction of a qualifying loss from any chargeable gains (whether or not it also involves anything else).
- (2) A qualifying loss accruing to a company is not to be deductible from chargeable gains accruing to the company unless the gains accrue to the company on a disposal of a pre-change asset.
- (3) In this section a “pre-change asset” means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).
- (4) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (5) For the purposes of this section it does not matter—
  - (a) whether a qualifying loss accrues before, after or at the relevant time,
  - (b) whether a qualifying loss accrues at a time when there are no chargeable gains from which it could be deducted (or could otherwise have been deducted), or
  - (c) whether the tax advantage is secured for the company to which a qualifying loss accrues or for any other company.

**184B Restrictions on buying gains: tax avoidance schemes**

- (1) This section applies for the purposes of corporation tax in respect of chargeable gains if—
  - (a) at any time (“the relevant time”) there is a qualifying change of ownership in relation to a company (“the relevant company”) (see section 184C),
  - (b) a gain (a “qualifying gain”) accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),
  - (c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main

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- purpose, or one of the main purposes, of which is to secure a tax advantage, and
- (d) the advantage involves the deduction of a loss from a qualifying gain (whether or not it also involves anything else).
- (2) In the case of a qualifying gain accruing to a company, a loss accruing to the company is not to be deductible from the gain unless the loss accrues to the company on a disposal of a pre-change asset.
- (3) In this section a “pre-change asset” means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).
- (4) In this section “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).
- (5) For the purposes of this section it does not matter—
- (a) whether a qualifying gain accrues before, after or at the relevant time,
  - (b) whether a qualifying gain accrues at a time when there are no losses which could be deducted (or could otherwise have been deducted) from the gain, or
  - (c) whether the tax advantage is secured for the company to which a qualifying gain accrues or for any other company.

**184C Sections 184A and 184B: meaning of “qualifying change of ownership”**

- (1) For the purposes of sections 184A and 184B, there is a qualifying change of ownership in relation to a company at any time if any one or more of the following occur at that time—
- (a) the company joins a group of companies (see subsections (2) to (5)),
  - (b) the company ceases to be a member of a group of companies,
  - (c) the company becomes subject to different control (see subsections (6) to (9)).
- (2) Whether a company is a member of a group of companies at any time is determined in accordance with section 170.
- (3) But, apart from in the excepted case, nothing in section 170(10) or (10A) is to prevent all the companies of one group from being regarded as joining another group when the principal company of the first group becomes a member of the other group at any time.
- (4) The excepted case is the case where—
- (a) the persons owning the shares of the principal company of the first group immediately before that time are the same as the persons owning the shares of the principal company of the other group immediately after that time,
  - (b) the principal company of the other group was not the principal company of any group immediately before that time, and

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- (c) immediately after that time the principal company of the other group had assets consisting entirely (or almost entirely) of shares of the principal company of the first group.
- (5) For this purpose, references to shares of a company are to the shares comprised in the issued share capital of the company.
- (6) The general rule is that a company becomes subject to different control at any time if any one or more of the following occur—
- (a) a person has control of the company at that time (whether alone or together with one or more others) and the person did not previously have control of the company,
  - (b) a person has control of the company at that time together with one or more others and the person previously had control of the company alone,
  - (c) a person ceases to have control of the company at that time (whether the person had control alone or together with one or more others).
- (7) The general rule is subject to the following exceptions.
- (8) A company does not become subject to different control in any case where it joins a group of companies and the case is the excepted case mentioned above.
- (9) A company (“the subsidiary”) does not become subject to different control at any time in any case where—
- (a) immediately before that time the subsidiary is the 75 per cent. subsidiary of another company, and
  - (b) (although there is a change in the direct ownership of the subsidiary) that other company continues immediately after that time to own it as a 75 per cent. subsidiary.

#### **184D Sections 184A and 184B: meaning of “tax advantage”**

For the purposes of sections 184A and 184B, “tax advantage” means—

- (a) relief or increased relief from corporation tax,
- (b) repayment or increased repayment of corporation tax,
- (c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax, or
- (d) the avoidance of a possible assessment to corporation tax.

#### **184E Sections 184A and 184B: “pre-change assets”: basic rules**

- (1) If—
- (a) a company other than the relevant company makes a disposal of an asset, and
  - (b) the asset has been disposed of at any time after the relevant time by a disposal to which section 171(1) does not apply (a “non-section 171(1) transfer”),
- the asset ceases to be regarded as a pre-change asset for the purposes of sections 184A and 184B (but see also subsections (10) and (11)).

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- (2) But (without affecting the generality of the provision made by the following subsection) if, on a non-section 171(1) transfer,—
- (a) an asset would cease to be regarded as a pre-change asset as a result of subsection (1), and
  - (b) the company making the non-section 171(1) transfer retains any interest in or over the asset,
- that interest is to be regarded as a pre-change asset for the purposes of sections 184A and 184B.
- (3) If—
- (a) the relevant company or any other company holds an asset (“the new asset”) at or after the relevant time,
  - (b) the value of the new asset derives in whole or in part from a pre-change asset, and
  - (c) the new asset is not acquired by the company concerned as a result of a non-section 171(1) transfer,
- the new asset is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.
- (4) For this purpose the cases in which the value of an asset may be derived from any other asset include any case where—
- (a) assets have been merged or divided,
  - (b) assets have changed their nature, or
  - (c) rights or interests in or over assets have been created or extinguished.
- (5) If a pre-change asset is “the old asset” for the purposes of section 116 (reorganisations, conversions and reconstructions), “the new asset” for the purposes of that section is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.
- (6) If a pre-change asset is the “original shares” for the purposes of sections 127 to 131 (reorganisation or reduction of share capital), the “new holding” for the purposes of those sections is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.
- (7) The following subsection applies if, as a result of the application of a relevant deferral provision in the case of a disposal of a pre-change asset (“the original disposal”),—
- (a) a gain or loss that would otherwise accrue to a company does not so accrue, or
  - (b) any part of any such gain is treated as forming part of a single chargeable gain which does not accrue to the company on the original disposal,
- and a gain or loss does, wholly or partly in consequence of the application of that provision in the case of the original disposal, accrue to the company or any other company on a subsequent occasion.
- (8) So much of the gain or loss accruing on the subsequent occasion as accrues in consequence of the application of the relevant deferral provision in the case of the original disposal is to be regarded for the purposes of sections 184A and 184B as accruing on a disposal of a pre-change asset (so far as it would not otherwise be so regarded).



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- (9) A “relevant deferral provision” means any of the following—
- (a) section 139 (reconstruction involving transfer of business),
  - (b) section 140 (postponement of charge on transfer of assets to non-resident company),
  - (c) section 140A (transfer of a UK trade),
  - (d) section 140E (merger leaving assets within UK tax charge),
  - (e) sections 152 and 153 (replacement of business assets),
  - (f) section 187 (postponement of charge on deemed disposal under section 185).
- (10) If—
- (a) a pre-change asset of the relevant company is transferred to another company (“the transferee company”),
  - (b) any of sections 139, 140A and 140E apply to the companies in the case of the asset, and
  - (c) the transfer of the asset is made directly or indirectly in consequence of, or otherwise in connection with, the arrangements mentioned in section 184A or 184B,
- the asset is to be regarded as a “pre-change asset” in the hands of the transferee company for the purposes of sections 184A and 184B.
- (11) In such a case, subsection (1) applies as if the reference in paragraph (a) of that subsection to the relevant company were to the transferee company.

#### **184F Sections 184A and 184B: “pre-change assets”: pooling rules**

- (1) This section applies, in the case of any pre-change asset of the relevant company or any pre-change asset of any company which is acquired on a disposal to which section 171(1) applies, if—
- (a) the pre-change asset consists of a holding of securities which falls as a result of any provision of Chapter 1 of Part 4 to be regarded as a single asset (“the pre-change pooled asset”), and
  - (b) as a result of any disposal or acquisition at any time after the relevant time, any securities (“the other securities”) would (but for this section) be regarded as forming part of the pre-change pooled asset.
- (2) None of the other securities are to be regarded for the purposes of this Act as forming part of the pre-change pooled asset.
- (3) But this does not prevent the other securities from being regarded, as a result of any provision of that Chapter, as forming part of or constituting a different, single asset (“the other pooled asset”).
- (4) Securities of the same class as the other securities which are disposed of at or after the relevant time—
- (a) are to be identified first with the other securities or securities forming part of the other pooled asset,
  - (b) are to be identified next with securities forming part of the pre-change pooled asset (if the number of securities disposed of exceeds the number identified in accordance with paragraph (a)), and

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- (c) subject to paragraphs (a) and (b), are to be identified in accordance with the provisions applicable apart from those paragraphs.
- (5) The above identification rules apply even if some or all of the securities disposed of are otherwise identified—
- (a) by the disposal, or
- (b) by a transfer or delivery giving effect to it;
- but where a company disposes of securities in one capacity, they are not to be identified with securities which it holds, or can dispose of, only in some other capacity.
- (6) Chapter 1 of Part 4 has effect subject to this section.
- (7) In this section—
- “pre-change asset” means an asset which is pre-change asset for the purposes of section 184A or 184B,
- “securities” does not include relevant securities as defined in section 108 but, subject to that, means—
- (a) shares or securities of a company, and
- (b) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.
- (8) For the purposes of this section, shares or securities of a company are not to be treated as being of the same class unless—
- (a) they are so treated by the practice of a recognised stock exchange, or
- (b) they would be so treated if dealt with on a recognised stock exchange.”.
- (3) In Schedule 7A (restriction on set-off of pre-entry losses), in paragraph 1(1) (application of Schedule), at the end insert “, but this Schedule shall have no effect in any case where section 184A (restrictions on buying losses: tax avoidance schemes) has effect in relation to those losses ”.
- (4) Section 177B and Schedule 7AA (restrictions on setting losses against pre-entry gains) shall cease to have effect.
- (5) In section 213 (insurance companies: spreading of gains and losses under section 212)
- (a) in subsection (8H) for “that the net amount is” to the end substitute “ that the net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded ”, and
- (b) in subsection (8I) for “paragraph 1” to the end substitute “ section 184C as if those references were contained in that section; and in subsection (8A)(b) above “group” has the same meaning as in that section ”.
- The amendments made by this subsection have effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period ending on or after 5th December 2005.
- (6) The amendments made by this section, other than subsection (5), have effect for calculating the amount to be included in respect of chargeable gains in a company's total profits for any accounting period ending on or after 5th December 2005.

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- (7) But, in respect of any such accounting period, those amendments do not have effect in relation to the deduction of any loss from chargeable gains that accrue on any disposal made before 5th December 2005 unless that loss accrues on a disposal made on or after that date.
- (8) For the purposes of those amendments, it does not matter whether a qualifying change of ownership in relation to a company occurs—
- (a) before 5th December 2005, or
  - (b) on or after that date.
- (9) [<sup>F26</sup>Subsections (10) to (12) apply] so long as each of the following conditions is met—
- (a) at any time (“the relevant time”) before 5th December 2005 there is a qualifying change of ownership in relation to a company (“the relevant company”) for the purposes of section 184A <sup>F27</sup> . . . of TCGA 1992,
  - (b) the change of ownership occurs because the relevant company ceases to be a member of a group of companies at the relevant time (whether or not it also occurs for any other reason),
  - (c) the principal company of that group has control of the relevant company at the relevant time and at [<sup>F28</sup>immediately afterwards,]
  - [<sup>F29</sup>(ca) no qualifying change of ownership occurs at any time in relation to the principal company of that group for the purposes of section 184A of TCGA 1992 directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage falling within subsection (1)(d) of that section, and]
  - (d) <sup>F30</sup> . . . . .
  - (e) a qualifying loss for the purposes of section 184A of TCGA 1992 <sup>F31</sup> . . . accrues to the relevant company or any other company on a disposal made before 5th December 2005.
- [<sup>F32</sup>(10) Subsection (2) of that section has effect in relation to that qualifying loss subject to the following modifications.
- (11) That subsection has effect as if there were inserted at the end of it unless the gains accrue to the company on a disposal of a pre-change asset.
- (12) That subsection (modified as mentioned above) has effect as if the reference to a pre-change asset included an asset held before the relevant time by any company—
- (a) which, immediately before that time, was a member of the same group of companies as the relevant company, and
  - (b) which, throughout the period beginning with that time and ending immediately after the making of the disposal referred to in that subsection, has remained under the control of the company which was the principal company of that group at the relevant time.
- (13) Expressions which are used in subsections (9) to (12) have the same meaning as in sections 184A and 184C of TCGA 1992.]

#### Textual Amendments

- F26** Words in s. 70(9) substituted (with effect as mentioned in s. 32(9) of the amending Act) by Finance Act 2007 (c. 11), s. 32(5)(a)

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- F27** Words in s. 70(9)(a) repealed (with effect in accordance with s. 32 of the amending Act) by Finance Act 2007 (c. 11), ss. 32(5)(b), 114, {Sch. 27 Pt. 2(4) Note}
- F28** Words in s. 70(9)(c) substituted (with effect as mentioned in s. 32(9) of the amending Act) by Finance Act 2007 (c. 11), s. 32(5)(c)
- F29** S. 70(9)(ca) inserted (with effect as mentioned in s. 32(9) of the amending Act) by Finance Act 2007 (c. 11), s. 32(5)(d)
- F30** S. 70(9)(d) and following word repealed (with effect in accordance with s. 32 of the amending Act) by Finance Act 2007 (c. 11), ss. 32(5)(e), 114, {Sch. 27 Pt. 2(4) Note}
- F31** Words in s. 70(9)(e) repealed (with effect in accordance with s. 32 of the amending Act) by Finance Act 2007 (c. 11), ss. 32(5)(f), 114, {Sch. 27 Pt. 2(4) Note}
- F32** S. 70(10)-(13) substituted (with effect as mentioned in s. 32(9) of the amending Act) for s. 70(10)(11) by Finance Act 2007 (c. 11), s. 32(6)

## 71 Other avoidance involving losses accruing to companies

(1) After section 184F of TCGA 1992 (as inserted by section 70 above) insert—

### “184G Avoidance involving losses: schemes converting income to capital

- (1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.
- (2) Condition A is that—
- (a) any receipt arises to a company (“the relevant company”) on a disposal of an asset, and
  - (b) the receipt arises directly or indirectly in consequence of, or otherwise in connection with, any arrangements.
- (3) Condition B is that—
- (a) a chargeable gain (the “relevant gain”) accrues to the relevant company on the disposal, and
  - (b) losses accrue (or have accrued) to the relevant company on any other disposal of any asset (whether before or after or as part of the arrangements).
- (4) Condition C is that, but for the arrangements, an amount would have fallen to be taken into account wholly or partly instead of the receipt in calculating the income chargeable to corporation tax—
- (a) of the relevant company, or
  - (b) of a company which, at any qualifying time, is a member of the same group as the relevant company.
- (5) Condition D is that—
- (a) the main purpose of the arrangements, or
  - (b) one of the main purposes of the arrangements,
- is to secure a tax advantage that involves the deduction of any of the losses from the relevant gain (whether or not it also involves anything else).
- (6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the relevant company a notice in respect of the arrangements (but see also section 184I).

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- (7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the relevant company at any time is to be deductible from the relevant gain.
- (8) A notice under this section must—
- (a) specify the arrangements,
  - (b) specify the accounting period in which the relevant gain accrues, and
  - (c) inform the relevant company of the effect of this section.
- (9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.
- (10) In this section—
- “arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),
  - “group”, in relation to companies, means a group determined in accordance with section 170,
  - “qualifying time”, in relation to any arrangements, means any time which falls in the period—
    - (a) beginning with the time at which the arrangements are made, and
    - (b) ending with the time at which the matters (other than any tax advantage) intended to be secured by the arrangements are secured,
  - “tax advantage” has the meaning given by section 184D.

#### **184H Avoidance involving losses: schemes securing deductions**

- (1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.
- (2) Condition A is that—
- (a) a chargeable gain (the “relevant gain”) accrues to a company (“the relevant company”) directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and
  - (b) losses accrue (or have accrued) to the relevant company on any disposal of any asset (whether before or after or as part of the arrangements).
- (3) Condition B is that the relevant company, or a company connected with the relevant company, incurs any expenditure—
- (a) which is allowable as a deduction in calculating its total profits chargeable to corporation tax but which is not allowable as a deduction in computing its gains under section 38, and
  - (b) which is incurred directly or indirectly in consequence of, or otherwise in connection with, the arrangements.
- (4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage that involves both—
- (a) the deduction of the expenditure in calculating total profits, and
  - (b) the deduction of any of the losses from the relevant gain,

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whether or not it also involves anything else.

- (5) Condition D is that the arrangements are not excluded arrangements. For this purpose arrangements are excluded arrangements if—
  - (a) the arrangements are made in respect of land or any estate or interest in land,
  - (b) the arrangements fall within section 779(1) or (2) of the Taxes Act (sale and lease-back: limitation on tax reliefs),
  - (c) the person to whom the payment mentioned in that subsection is payable is not a company connected with the relevant company, and
  - (d) the arrangements are made between persons dealing at arm's length.
- (6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the company a notice in respect of the arrangements (but see also section 184I).
- (7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the company at any time is to be deductible from the relevant gain.
- (8) A notice under this section must—
  - (a) specify the arrangements,
  - (b) specify the accounting period in which the relevant gain accrues, and
  - (c) inform the relevant company of the effect of this section.
- (9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.
- (10) In this section—
 

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

“tax advantage” has the meaning given by section 184D.
- (11) For the purposes of this section it does not matter whether the tax advantage is secured for the relevant company or for any other company.

#### **184I Notices under sections 184G and 184H**

- (1) Subsection (2) applies if—
  - (a) the Board give a notice under section 184G or 184H (a “relevant notice”) to a company that specifies an accounting period, and
  - (b) the notice is given before the company has made its company tax return for that accounting period.
- (2) If the company makes its return for that period before the end of the applicable 90 day period (see subsection (12)), it may—
  - (a) make a return that disregards the notice, and
  - (b) at any time after making the return and before the end of the applicable 90 day period, amend the return for the purpose of complying with the provision referred to in the notice.
- (3) If a company has made a company tax return for an accounting period, the Board may give the company a relevant notice in relation to that period only

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if a notice of enquiry has been given to the company in respect of its return for that period.

- (4) After any enquiries into the return for that period have been completed, the Board may give the company a relevant notice only if requirements A and B are met.
- (5) Requirement A is that at the time the enquiries into the return were completed, the Board could not have been reasonably expected, on the basis of information made available—
  - (a) to them before that time, or
  - (b) to an officer of theirs before that time,to have been aware that the circumstances were such that a relevant notice could have been given to the company in relation to that period.
- (6) For the purposes of requirement A, paragraph 44(2) and (3) of Schedule 18 to the Finance Act 1998 (information made available) applies as it applies for the purposes of paragraph 44(1).
- (7) Requirement B is that—
  - (a) the company or any other person was requested to produce or provide information during an enquiry into the return for that period, and
  - (b) if the request had been duly complied with, the Board could reasonably have been expected to give the company a relevant notice in relation to that period.
- (8) If—
  - (a) a company makes a company tax return for an accounting period, and
  - (b) the company is subsequently given a relevant notice that specifies that period,it may amend the return for the purpose of complying with the provision referred to in the notice at any time before the end of the applicable 90 day period.
- (9) If the relevant notice is given to the company after it has been given a notice of enquiry in respect of its return for the period, no closure notice may be given in relation to its company tax return until—
  - (a) the end of the applicable 90 day period, or
  - (b) the earlier amendment of its company tax return for the purpose of complying with the provision referred to in the notice.
- (10) If the relevant notice is given to the company after any enquiries into the return for the period are completed, no discovery assessment may be made as regards the chargeable gain to which the notice relates until—
  - (a) the end of the applicable 90 day period, or
  - (b) the earlier amendment of the company tax return for the purpose of complying with the provision referred to in the notice.
- (11) Subsections (2)(b) and (8) do not prevent a company tax return for a period becoming incorrect if—
  - (a) a relevant notice is given to the company in relation to that period,

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- (b) the return is not amended in accordance with subsection (2)(b) or (8) for the purpose of complying with the provision referred to in the notice, and
- (c) the return ought to have been so amended.

(12) In this section—

“the applicable 90 day period”, in relation to a relevant notice, means the period of 90 days beginning with the day on which the notice is given,

“closure notice” means a notice under paragraph 32 of Schedule 18 to the Finance Act 1998,

“company tax return” means the return required to be delivered pursuant to a notice under paragraph 3 of that Schedule, as read with paragraph 4 of that Schedule,

“discovery assessment” means an assessment under paragraph 41 of that Schedule,

“notice of enquiry” means a notice under paragraph 24 of that Schedule.”.

<sup>F33</sup>(2) .....

<sup>F33</sup>(3) .....

- (4) The amendments made by this section have effect in relation to chargeable gains accruing on any disposal that is made on or after 5th December 2005.

**Textual Amendments**

**F33** S. 71(2)(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 12](#) (with [Sch. 9 paras. 1-9, 22](#))

**72 Repeal of s.106 of TCGA 1992**

- (1) Section 106 of TCGA 1992 (disposal of shares and securities by company within prescribed period of acquisition) shall cease to have effect.

(2) In consequence of that repeal—

- (a) in section 104(2)(b) of TCGA 1992 (share pooling: general interpretative provisions) omit “, 106”,
- (b) in section 105 of that Act (disposal on or before day of acquisition of shares and other unidentified assets)—
  - (i) in subsection (2)(b) for “any of the provisions of section 106 or” substitute “ section ”, and
  - (ii) in subsection (2)(c) omit “106,”,
- (c) in section 108(8) of that Act (identification of relevant securities) omit “shall have effect subject to section 106 but”,
- (d) in section 110(1)(b) of that Act (section 104 holdings: indexation allowance) for “sections 105 and 106” substitute “ section 105 ”, and



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- (e) in Schedule 15 to FA 2000 (corporate venture scheme), in paragraph 93(6) (identification of shares on a disposal), for “Sections 104 to 106” substitute “Sections 104, 105”.
- (3) The amendments made by this section have effect in relation to any disposal that is made on or after 5th December 2005.

### *Insurance policies and annuities*

## **73 Policies of insurance and non-deferred annuities**

- (1) TCGA 1992 is amended as follows.
- (2) For section 204 (policies of insurance) substitute—

### **“204 Policies of insurance and non-deferred annuities**

- (1) A gain accruing on a disposal of, or of an interest in, the rights conferred by a non-life policy of insurance is not a chargeable gain (but see subsection (2)).
- (2) If a disposal is of, or of an interest in, the rights conferred by a non-life policy of insurance of the risk of—
  - (a) any kind of damage to assets, or
  - (b) the loss or depreciation of assets,the exemption under subsection (1) does not apply so far as those rights relate to chargeable assets.
- (3) For this purpose “chargeable assets” means assets on the disposal of which a chargeable gain—
  - (a) may accrue, or
  - (b) might have accrued.
- (4) Nothing in subsections (1) and (2) prevents sums received under a non-life policy of insurance of the risk of—
  - (a) any kind of damage to assets, or
  - (b) the loss or depreciation of assets,from being sums derived from the assets for the purposes of this Act (and, in particular, for the purposes of section 22).
- (5) A gain accruing on a disposal of, or of an interest in, the rights conferred by a contract for an annuity is not a chargeable gain if the annuity is—
  - (a) a non-deferred annuity, or
  - (b) an annuity granted (or deemed to be granted) under the Government Annuities Act 1929.
- (6) If any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder—
  - (a) the policy holder's acquisition of the assets, and
  - (b) the disposal of the assets to the policy holder,are to be taken for the purposes of this Act to be for a consideration equal to the market value of the assets.

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- (7) In this section “interest”, in relation to any rights, means an interest as a co-owner of the rights.
- (8) It does not matter—
  - (a) whether the rights are owned jointly or in common, or
  - (b) whether or not the interests of the co-owners are equal.
- (9) In this section a “non-deferred annuity” means an annuity—
  - (a) which is not granted under a contract for a deferred annuity, and
  - (b) which is granted in the ordinary course of a business of granting annuities on the life of any person,
 and it does not matter whether the annuity includes instalments of capital.
- (10) In this section a “non-life policy of insurance” means—
  - (a) a contract made in the course of a capital redemption business, as defined in section 458(3) of the Taxes Act, and
  - (b) any other policy of insurance which is not a policy of insurance on the life of any person.”.
- (3) In section 237 (superannuation funds, annuities and annual payments)—
  - (a) at the end of paragraph (a), insert “ or ”, and
  - (b) omit paragraph (b) (exemption for disposals of non-deferred annuities etc).
- (4) The amendments made by this section have effect in relation to disposals made on or after 5th December 2005.

### *Capital gains tax*

#### **74 Exception to “bed and breakfasting” rules etc**

- (1) TCGA 1992 is amended as follows.
- (2) In section 106A (identification of securities: general rules for capital gains tax), after subsection (5) (acquisition of securities within 30 days after disposing of securities of same class) insert—
  - “(5A) Subsection (5) above shall not require securities to be identified with securities which the person making the disposal acquires at a time when—
    - (a) he is neither resident nor ordinarily resident in the United Kingdom, or
    - (b) he is resident or ordinarily resident in the United Kingdom but is Treaty non-resident.”.
- (3) In section 288 (interpretation), after subsection (7A) (meaning of “surrender” in application of Act to Scotland) insert—
  - “(7B) For the purposes of this Act, a person is Treaty non-resident at any time if, at that time, he falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.”.
- (4) In consequence of the amendment made by subsection (3)—

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- (a) in section 10A (temporary non-residents), omit subsection (9A) (meaning of “Treaty non-resident”), and
  - (b) in section 83A (trustees both resident and non-resident in a year of assessment), omit subsection (5) (meaning of “Treaty non-resident”).
- (5) The amendment made by subsection (2) has effect in relation to any acquisition made at any time on or after 22nd March 2006.
- (6) The amendments made by subsections (3) and (4) have effect in relation to any time on or after 22nd March 2006.

## CHAPTER 8

### AVOIDANCE: MISCELLANEOUS

#### *Film partnerships*

#### **75 Interest relief: film partnership**

F34 .....

##### **Textual Amendments**

**F34** S. 75 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, Sch. 1 para. 615, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

#### *Financial instruments*

#### **76 Avoidance involving financial arrangements**

Schedule 6 (which makes provision in relation to tax avoidance involving financial arrangements) has effect.

#### *Intangible fixed assets*

#### **F3577 Treating assets as “existing assets” etc**

.....

##### **Textual Amendments**

**F35** S. 77 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

*Status: Point in time view as at 31/12/2020.*

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### *International matters*

## **78 Controlled foreign companies and treaty non-resident companies**

- (1) Section 90 of FA 2002 (controlled foreign companies and treaty non-resident companies) is amended as follows.
- (2) In subsection (2) (application of subsection (1), which inserted section 747(1B) of ICTA (disregard of section 249 of FA 1994 for most purposes of Chapter 4 of Part 17 of ICTA (controlled foreign companies))), for paragraph (b) (exclusion for companies which were non-resident immediately before 1st April 2002) substitute—
  - “(b) does not apply to a company (“the non-resident company”) that—
    - (i) by virtue of section 249 of the Finance Act 1994 was treated as resident outside the United Kingdom, and not resident in the United Kingdom, immediately before that date, and
    - (ii) has not subsequently ceased to be so treated,
 unless condition A or B is met in relation to the non-resident company at any time on or after 22nd March 2006.”
- (3) After that subsection insert—
  - “(3) Condition A is met in relation to the non-resident company at any time on or after 22nd March 2006 if—
    - (a) immediately before 22nd March 2006 the non-resident company does not own directly or indirectly any company as a subsidiary company, and
    - (b) at any time on or after that date the non-resident company becomes the direct or indirect owner of a UK resident company as a subsidiary company.
  - (4) Condition B is met in relation to the non-resident company at any time on or after 22nd March 2006 if—
    - (a) immediately before 22nd March 2006 the non-resident company owns directly or indirectly any company as a subsidiary company (which may be a UK resident company),
    - (b) at any time (“the relevant time”) on or after that date the non-resident company becomes the direct or indirect owner of any UK resident company as a subsidiary company (or, as the case may be, another UK resident company), and
    - (c) directly or indirectly in consequence of, or otherwise in connection with, the ownership mentioned in paragraph (b) there is a qualifying change in activities.
  - (5) There is a qualifying change in activities if, at the relevant time or any subsequent time,—
    - (a) there is a major change in the nature, conduct or scale of the non-resident company's activities, or
    - (b) there is a major change in the nature, conduct or scale of the activities of the group of companies of which the non-resident company is a member.
  - (6) In this section references to directly or indirectly owning a company are references to owning it—

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- (a) directly or through another company or companies, or
- (b) partly directly and partly through another company or companies.

(7) In this section references to ownership are to be read as references to beneficial ownership.

(8) In this section “UK resident company”, in relation to any time, means any company which is resident in the United Kingdom at that time.”.

## **79 Transfer of assets abroad**

Schedule 7 (which makes amendments of, or relating to, Chapter 3 of Part 17 of ICTA (transfer of assets abroad)) has effect.

### *Pre-owned assets*

## **80 Restriction of exemption from charge to income tax**

(1) Schedule 15 to FA 2004 (charge to income tax on benefits received by former owner of property) is amended as follows.

(2) In paragraph 11 (exemptions from charge)—

- (a) in sub-paragraph (9) (meaning of “the relevant property”) for “sub-paragraphs (1) to (8)” substitute “ this paragraph ”, and
- (b) at the end insert—

“(11) Sub-paragraph (12) applies where at any time—

- (a) the relevant property has ceased to be comprised in a person's estate for the purposes of IHTA 1984, or
- (b) he has directly or indirectly provided any consideration for the acquisition of the relevant property,

and at any subsequent time the relevant property or any derived property is comprised in his estate for the purposes of IHTA 1984 as a result of section 49(1) of that Act (treatment of interests in possession).

(12) Where this sub-paragraph applies, the relevant property and any derived property—

- (a) are not to be treated for the purposes of sub-paragraphs (1) and (2) as comprised in his estate at that subsequent time, and
- (b) are not to be treated as falling within sub-paragraph (5) in relation to him at that subsequent time.

(13) For the purposes of sub-paragraphs (11) and (12) references, in relation to the relevant property, to any derived property are to other property—

- (a) which derives its value from the relevant property, and
- (b) whose value, so far as attributable to the relevant property, is not substantially less than the value of the relevant property.”.

(3) In paragraph 21 (election for application of inheritance tax provisions where paragraph 3 (land) or 6 (chattels) would otherwise apply)—

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- (a) in sub-paragraph (2)(b) (application of the gifts with reservation rules), in sub-paragraph (i) at the end insert “ , but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property ”,
  - (b) in sub-paragraph (2)(b) for sub-paragraph (ii) and the “and” before it substitute—
    - “(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property, and
    - (iii) if the chargeable person is beneficially entitled to an interest in possession in the property, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to the chargeable proportion of the property.”, and
  - (c) in sub-paragraph (3) (meaning of “the chargeable proportion”), after paragraph (a)(ii) insert—
    - “(iii) in the case of property in which the chargeable person is beneficially entitled to an interest in possession, to the date of his death or (if his interest comes to an end on an earlier date) that earlier date, and”.
- (4) In paragraph 22 (election for application of inheritance tax provisions where paragraph 8 (intangible property) would otherwise apply), in sub-paragraph (2)(b) (application of the gifts with reservation rules)—
- (a) in sub-paragraph (i) at the end insert “ , but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned ”, and
  - (b) for sub-paragraph (ii) and the “and” before it substitute—
    - “(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned, and
    - (iii) if the chargeable person is beneficially entitled to an interest in possession in the property concerned, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to that property.”.
- (5) The amendments made by this section have effect—
- (a) for the part of the year 2005-06 beginning with 5th December 2005, and
  - (b) for the year 2006-07 and subsequent years of assessment.
- (6) If—
- (a) paragraph 11 of Schedule 15 to FA 2004 ceases, in consequence of the amendments made by this section, to apply to a person in relation to any property, and
  - (b) that person dies before the day on which this Act is passed without making an election under paragraph 21 or 22 of that Schedule in relation to that property,

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his personal representatives (within the meaning of IHTA 1984) may make any election under paragraph 21 or 22 of that Schedule that he might have made.

- (7) If—
- (a) in consequence of the amendments made by this section a person makes an election under paragraph 21 or 22 of Schedule 15 to FA 2004,
  - (b) that person dies before the day on which this Act is passed, and
  - (c) an amount of inheritance tax would (but for this subsection) fall due before that day,
- that amount is to be treated instead as falling due at the end of the period of 14 days beginning with that day.
- (8) This section is deemed to have come into force on 5th December 2005.

## CHAPTER 9

### MISCELLANEOUS PROVISIONS

#### *Leasing of plant or machinery*

#### **81 Leases of plant or machinery**

- (1) Schedule 8 (which makes provision in relation to leases of plant or machinery) has effect.
- (2) Schedule 9 (which makes miscellaneous amendments relating to such leases) has effect.

#### *Sale of lessors*

#### **<sup>F36</sup>82 Sale etc of lessor companies etc**

.....

#### **Textual Amendments**

**F36** S. 82 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 481, [Sch. 3 Pt. 1](#) (with Sch. 2)

#### **83 Restrictions on use of losses etc: leasing partnerships**

<sup>F37</sup>(1) .....

<sup>F37</sup>(2) .....

- (3) After section 261 of CAA 2001 (special leasing: life assurance business) insert—

#### **“261A Special leasing: leasing partnerships**

- (1) This section applies for corporation tax purposes if—

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- (a) a company carries on a business in partnership with other persons in a chargeable period of the partnership,
  - (b) the business (“the leasing business”) is, on any day in that period, a business of leasing plant or machinery,
  - (c) the company is entitled to an allowance under section 19 (special leasing of plant or machinery) for any chargeable period comprised (wholly or partly) in the chargeable period of the partnership, and
  - (d) the interest of the company in the leasing business during the chargeable period of the partnership is not determined on an allowable basis.
- (2) Subsections (3) to (6) of section 260 do not apply in relation to the allowance.
- (3) For the purposes of this section—
- (a) “business of leasing plant or machinery” has the same meaning as in Part 3 of Schedule 10 to FA 2006 (sale etc of lessor companies etc), and
  - (b) section 785ZA of ICTA applies for determining whether the interest of the company in the leasing business during the chargeable period of the partnership is determined on an allowable basis.”.
- (4) The amendments made by this section have effect in relation to any business carried on by a company in partnership in any accounting period of the partnership ending on or after 5th December 2005.
- (5) But, in relation to any accounting period of the partnership beginning before 5th December 2005 and ending on or after that date, those amendments have effect only if—
- (a) the company starts to carry on the business in partnership on or after that date, or
  - (b) a relevant change in the interest of the company in the business occurs on or after that date.
- (6) A relevant change in the interest of the company in the business occurs at any time if—
- (a) immediately before that time its interest in the business during any accounting period of the partnership is determined on an allowable basis (within the meaning given by <sup>F38</sup>section 887 of the Corporation Tax Act 2010]), and
  - (b) immediately after that time its interest in the business during that period is not so determined.

#### Textual Amendments

**F37** S. 83(1)(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F38** Words in s. 83(6)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 482** (with [Sch. 2](#))

## 84 Disposal of plant or machinery subject to lease where income retained

- (1) CAA 2001 is amended as follows.



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- (2) In section 66 (list of provisions outside Chapter 5 of Part 2 about disposal values), after the entry relating to section 222 of CAA 2001, insert—

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|                        |   |
|------------------------|---|
| “sections 228K to 228M | Disposal of plant or machinery subject to lease where income retained”. |
|------------------------|---|

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- (3) After section 228J (plant or machinery subject to further operating lease) insert—

*“Disposal of plant or machinery subject to lease where income retained*

**228K Disposal of plant or machinery subject to lease where income retained**

- (1) This section applies for corporation tax purposes if—
- on any day (“the relevant day”) a person (“the lessor”) carries on a business of leasing plant or machinery (the “leasing business”),
  - on the relevant day the lessor sells or otherwise disposes of any relevant plant or machinery subject to a lease to another person,
  - the lessor remains entitled immediately after the disposal to some or all of the rentals under the lease in respect of the plant or machinery which are payable on or after the relevant day, and
  - the lessor is required to bring a disposal value of the plant or machinery into account under this Part.
- (2) The disposal value to be brought into account is determined as follows.
- (3) If the amount or value of the consideration for the disposal exceeds the limit that would otherwise be imposed on the amount of the disposal value by section 62 (general limit) or 239 (limit on disposal value where additional VAT rebate)—
- that limit is not to apply, and
  - the whole of the amount or value of the consideration for the disposal is to be the disposal value to be brought into account.
- (4) In any other case, the disposal value to be brought into account is the sum of—
- the amount or value of the consideration for the disposal, and
  - the value of the rentals under the lease in respect of the plant or machinery (see subsections (7) and (8)) which are payable on or after the relevant day and to which the lessor remains entitled immediately after the disposal,
- but subject to the limit imposed on the amount of the disposal value by section 62 or 239.
- (5) If—
- any of the rentals under the lease are receivable by the lessor on or after the relevant day, and
  - the value of any of those rentals is represented in the amount of the disposal value under subsection (4)(b),

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the amount of those rentals that is equal to their value as so represented is left out of account in calculating the income of the lessor's leasing business for corporation tax purposes.

- (6) If, in determining under subsection (5) the amount of any rental to be so left out of account, it is necessary to apportion the amount of the rental, the apportionment is to be made on a just and reasonable basis.
- (7) For the purposes of this section, the value of any rentals under the lease in respect of the plant or machinery is taken to be the amount of the net present value of the rentals (see section 228L).
- (8) If any land or other asset which is not plant or machinery is subject to the lease, the value of any rentals under the lease in respect of the plant or machinery is taken to be so much of the amount of the net present value of the rentals as, on a just and reasonable basis, relates to the plant or machinery.
- (9) This section is supplemented by—
  - (a) section 228L (which provides rules for determining the net present value of the rentals), and
  - (b) section 228M (which defines other expressions used in this section).

**228L Determining the net present value of the rentals for purposes of s.228K**

- (1) For the purposes of section 228K, the amount of the net present value of the rentals is calculated as follows—

*Step 1*

Find the amount (“RI”) of each rental payment—

- (a) which is payable at any time during the term of the lease, and
- (b) which is payable on or after the relevant day.

*Step 2*

For each rental payment find the day (“the payment day”) on which it becomes payable.

*Step 3*

For each rental payment find the number of days in the period (“P”) which—

- (a) begins with the relevant day, and
- (b) ends with the payment day.

*Step 4*

Calculate the net present value of each payment (“NPVRI”) by applying the following formula—

$$\frac{RI}{(1 + T)^i}$$

where—

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T is the temporal discount rate, and  
i is the number of days in P divided by 365.

*Step 5*

Add together each amount of NPVRI determined under step 4.

- (2) For the purposes of this section the “term” of a lease has the meaning given in Chapter 6A of this Part.
- (3) For the purposes of this section the “temporal discount rate” is 3.5% or such other rate as may be specified by regulations made by the Treasury.
- (4) The regulations may make such provision as is mentioned in subsection (3) (b) to (f) of section 178 of FA 1989 (power of Treasury to set rates of interest).
- (5) Subsection (5) of that section (power of Commissioners to specify rate by order in certain circumstances) applies in relation to regulations under this section as it applies in relation to regulations under that section.

**228M Other definitions for the purposes of s.228K**

- (1) This section applies for the purposes of section 228K.
- (2) “Business of leasing plant or machinery”—
  - (a) has the same meaning as in Part 2 of Schedule 10 to FA 2006 (sale etc of lessor companies etc) (if the business is carried on otherwise than in partnership), or
  - (b) has the same meaning as in Part 3 of that Schedule (if the business is carried on in partnership).
- (3) “Lease” includes—
  - (a) an underlease, sublease, tenancy or licence, and
  - (b) an agreement for any of those things.
- (4) “Relevant plant or machinery”, in relation to a business of leasing plant or machinery, means plant or machinery on whose provision expenditure is incurred wholly or partly for the purposes of the business.”.

<sup>F39</sup>(4) .....

- (5) The amendments made by this section have effect in relation to any disposal made on or after 5th December 2005.
- (6) But any rentals that are receivable by the lessor before 22nd March 2006 are to be left out of account in calculating the income of the lessor's leasing business for corporation tax purposes.

**Textual Amendments**

**F39** S. 84(4) omitted (21.7.2009) by virtue of [Finance Act 2009 \(c. 10\)](#), s. 126(6)(c)

*Status: Point in time view as at 31/12/2020.*

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**85 Restrictions on effect of elections under section 266 of CAA 2001**

- (1) CAA 2001 is amended as follows.
- (2) In section 266 (election where predecessor and successor are connected persons), in subsection (7) (sections 104, 108 and 265 not to apply if election is made), at the end insert “ (but see section 267A) ”.
- (3) In section 267 (effect of election), at the end insert—
  - “(6) This section is subject to section 267A.”.
- (4) After that section insert—

**“267A Restriction on effect of election**

- (1) This section applies for corporation tax purposes if—
  - (a) on any day (“the relevant day”) a person (“the predecessor”) carries on a business of leasing plant or machinery,
  - (b) on the relevant day another person (“the successor”) succeeds to the business, and
  - (c) the predecessor and the successor make an election under section 266.
- (2) Neither—
  - (a) section 266(7), nor
  - (b) the provisions of section 267,
 have effect in relation to any plant or machinery which, in determining whether the business is a business of leasing plant or machinery on the relevant day, is qualifying leased plant or machinery.
- (3) In this section “business of leasing plant or machinery”—
  - (a) has the same meaning as in Part 2 of Schedule 10 to FA 2006 (sale etc of lessor companies etc) (if the business is carried on otherwise than in partnership), or
  - (b) has the same meaning as in Part 3 of that Schedule (if the business is carried on in partnership).”.
- (5) The amendments made by this section have effect in relation to any succession occurring on or after 5th December 2005.

*Insurance companies and policyholders*

**F40 86 Insurance companies**

.....

**Textual Amendments**  
**F40** S. 86 omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 247\(o\)\(i\)](#)

*Status: Point in time view as at 31/12/2020.*

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**87 Qualifying policies: altering method for calculating benefits**

- (1) Schedule 15 to ICTA (provisions for determining whether an insurance policy is a “qualifying policy” for the purposes of the Tax Acts) is amended as follows.
- (2) In paragraph 18 (variations), in sub-paragraph (3) (paragraph does not apply by reason of certain variations), at the end insert “; or
  - (d) any variation which alters the method for calculating the benefits secured by the policy.”.
- (3) In paragraph 22 (certificates from body issuing policy), in sub-paragraph (3) (sub-paragraph (2) does not apply by reason of certain variations), at the end insert “; or
  - (c) any variation which alters the method for calculating the benefits secured by the policy.”.
- (4) In the case of a variation effected as part of, or in connection with, an insurance business transfer scheme, the amendments made by this section are deemed always to have had effect.
- (5) In any other case, the amendments made by this section have effect in relation to variations effected on or after 7th October 2005.
- (6) In this section an “insurance business transfer scheme” means—
  - (a) a scheme falling within section 105 of the Financial Services and Markets Act 2000 (c. 8),
  - (b) a scheme sanctioned by a court under Part 1 of Schedule 2C to the Insurance Companies Act 1982 (c. 50), or
  - (c) a scheme sanctioned by a court under section 49 of that Act or under any earlier enactment corresponding to that section,and for the purposes of this subsection any reference to an enactment is a reference to the enactment as it had effect from time to time.

*Settlements*

**88 Settlements, etc: chargeable gains**

Schedule 12 (which amends TCGA 1992 in respect of settlors and trustees of settlements and makes other minor and consequential amendments) shall have effect.

**89 Settlements, etc: income**

Schedule 13 (which amends ICTA and ITTOIA 2005 in respect of settlors and trustees of settlements and makes other minor and consequential amendments) shall have effect.

**90 Special trusts tax rates not to apply to social landlords' service charge income**

F41 .....

*Status: Point in time view as at 31/12/2020.*

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### Textual Amendments

- F41** S. 90 repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

### *Investment reliefs*

## 91 Venture capital schemes

- (1) Schedule 14 contains amendments of the provisions relating to—
- F42 . . . .  
 F43 . . . .
- the corporate venturing scheme.
- (2) Those amendments have effect as mentioned in that Schedule.

### Textual Amendments

- F42** Words in s. 91(1) repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, [Sch. 3 Pt. 2](#) (with transitional provisions and savings in [Sch. 2](#))
- F43** Words in s. 91(1) repealed (6.4.2007 with effect as mentioned in [s. 1034\(1\)](#) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1031, [Sch. 3 Pt. 1](#) (with transitional provisions and savings in [Sch. 2](#))

### *Employment-related securities*

## 92 Avoidance using options etc

- (1) Section 420 of ITEPA 2003 (meaning of securities etc) is amended as follows.
- (2) In subsection (1)(f), insert at the beginning “ options and ”.
- (3) In subsection (5)(e), insert at the beginning “ securities ”.
- (4) In subsection (8), in the definition of “ securities option ”, after “ acquire securities ” insert “ other than a right to acquire securities which is acquired pursuant to a right or opportunity made available under arrangements the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions ”.
- (5) This section has effect in relation to options acquired on or after 2nd December 2004; but subsection (4) also has effect in relation to an option acquired before that date where something is done on or after that date as part of the arrangements under which it was made available.

## <sup>F44</sup>93 Corporation tax relief for shares acquired under EMI option

.....

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### Textual Amendments

**F44** S. 93 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

## PAYE

### 94 PAYE: retrospective notional payments

- (1) ITEPA 2003 is amended as follows.
- (2) In section 222 (payments by employer on account of tax where deduction not possible)
  - (a) in subsection (1)(c), for “date on which the employer is treated as making the notional payment” substitute “relevant date”,
  - (b) in subsection (2), for “date mentioned in subsection (1)(c)” substitute “relevant date”, and
  - (c) after subsection (3) insert—
    - “(4) In this section “the relevant date” means—
      - (a) if the employer is treated by virtue of any Act as making the notional payment before the date on which the Act is passed, that date, and
      - (b) in any other case, the date on which the employer is treated as making the notional payment.”
- (3) In section 684(2) (PAYE regulations), in item 1—
  - (a) for “time of the payment” substitute “relevant time”, and
  - (b) after paragraph (b) insert—
    - ““The relevant time” is—
      - (a) if the payment is a notional payment for the purposes of section 710 and the person is treated by virtue of any Act as making it at a time before the date on which the Act is passed, that date, and
      - (b) in any other case, the time when the payment is made.”
- (4) In section 710 (notional payments: accounting for tax)—
  - (a) in subsection (7), after “means” insert “(subject to subsection (7A))”, and
  - (b) after that subsection insert—
    - “(7A) In a case where the notional payment is treated by virtue of any Act as made before the date on which the Act is passed—
      - (a) the reference in sub-paragraph (i) of paragraph (a) of subsection (7) to the time when the notional payment is made is to the date on which the Act is passed,
      - (b) the reference in sub-paragraph (ii) of that paragraph to any occasion falling within the same income tax period is to any occasion falling before the end of the income tax period next after that in which that date falls, and

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- (c) the reference in paragraph (b) of that subsection to the income tax period in which the notional payment was made is to the income tax period next after that in which that date falls.”
- (5) The provisions of ITEPA 2003 amended by this section have effect in relation to notional payments treated by virtue of this Act as made before the date on which this Act is passed as if for the references to the date on which the Act is passed in—
- (a) section 222(4)(a),
  - (b) paragraph (a) of the definition of “the relevant time” in section 684(2), and
  - (c) section 710(7A)(a), (b) and (c),
- there were substituted references to such date as the Commissioners for Her Majesty's Revenue and Customs may by order made by statutory instrument appoint.

#### Subordinate Legislation Made

**P4** S. 94(5) power fully exercised: 6.4.2007 appointed by {S.I. 2007/1081}, art. 2

### *Alternative finance arrangements*

## 95 Profit share agency

- F45(1) .....
- F45(2) .....
- F45(3) .....
- F45(4) .....
- F45(5) .....
- F45(6) .....
- F45(7) .....
- F45(8) .....
- F46(9) .....
- F47(10) .....
- F45(11) .....

#### Textual Amendments

- F45** S. 95(1)-(8)(11) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 7** (with Sch. 9 paras. 1-9, 22)
- F46** S. 95(9) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F47** S. 95(10) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 11** (with Sch. 9 paras. 1-9, 22)



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**F4896 Diminishing shared ownership**

.....

**Textual Amendments**

**F48** S. 96 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 7](#) (with Sch. 9 paras. 1-9, 22)

**F4997 Beneficial loans to employees**

.....

**Textual Amendments**

**F49** S. 97 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 217, Sch. 10 Pt. 7](#) (with Sch. 9 paras. 1-9, 22)

**F5098 Orders amending Chapter 5 of Part 2 of FA 2005**

.....

**Textual Amendments**

**F50** S. 98 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 218, Sch. 10 Pt. 7](#) (with Sch. 9 paras. 1-9, 22)

*Nuclear decommissioning*

**99 Amendment of section 29 of the Energy Act 2004**

(1) Section 29 of the Energy Act 2004 (c. 20) (disregard for tax purposes of cancellation etc of decommissioning provisions) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for “relevant company” substitute “BNFL company”;

(b) for paragraphs (b) and (c) substitute—

“(b) that provision—

- (i) relates to decommissioning or cleaning-up which the NDA acquires or has acquired responsibility for securing by virtue of a direction under section 3, but
- (ii) is not provision recognised in order to reflect the terms or effect of a management contract between the company and the NDA;

and

(c) the responsibility referred to in paragraph (b)(i)—

*Status: Point in time view as at 31/12/2020.*

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- (i) includes the financial responsibility under section 21,  
or
- (ii) would do so but for the fact that the amount of the financial responsibility is for the time being subject to a limit imposed by a capping agreement.”

(3) For subsections (3) and (4) substitute—

“(3) This subsection applies to a credit or debit if it arises from—

- (a) the recognition in the accounts of the company for a relevant period beginning on or after 1st April 2005 of—
  - (i) the relevant provision, or
  - (ii) an asset that, in accordance with generally accepted accounting practice, is recognised in connection with the relevant provision in order to reflect the acquisition of financial responsibility referred to in subsection (1) (a “matching asset”);
- (b) an adjustment made in the accounts of the company for such a period of—
  - (i) the relevant provision, or
  - (ii) a matching asset;
 or
- (c) the removal from the accounts of the company for such a period of—
  - (i) the relevant provision,
  - (ii) a matching asset, or
  - (iii) an asset or liability recognised in order to reflect the terms or effect of a contract falling within subsection (3A).

(3A) A contract falls within this subsection if—

- (a) it is a contract made before 1st April 2005 and having effect between two or more BNFL companies under which a party to the contract assumed responsibility for securing decommissioning or cleaning-up; and
- (b) the rights and obligations under the contract are extinguished by reason of a transfer made under a nuclear transfer scheme.”

(4) In subsection (5)—

(a) for the definition of “BNFL company” substitute—

““BNFL company” means—

- (a) BNFL,
- (b) a company that immediately before 1st April 2005 was a wholly-owned subsidiary of BNFL, or
- (c) a wholly-owned subsidiary of a company falling within paragraph (b);”;

(b) after that definition insert—

““capping agreement” means an agreement under subsection (9) of section 21, entered into on 1st April 2005, the sole or main effect of which is to impose a limit on the NDA's financial responsibility under that section;

“management contract” has the same meaning as in section 27;”;

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(c) for the definition of “relevant company” substitute—

““relevant period”, in relation to a company, means an accounting period during the whole of which the company is publicly owned;”.

(5) After that subsection insert—

“(5A) Where a company ceases to be publicly owned otherwise than at the end of an accounting period—

- (a) the accounting period during which it ceases to be publicly owned is treated for the purposes of corporation tax as ending when it so ceases; and
- (b) its profits and losses are to be computed accordingly for those purposes.”

(6) The amendments made by this section have effect in relation to accounting periods of a BNFL company ending on or after 22nd March 2006.

“BNFL company” has the same meaning as in section 29 of the Energy Act 2004 (c. 20) as amended by this section.

## **100 Amendment of section 30 of the Energy Act 2004**

(1) Section 30 of the Energy Act 2004 (disregard for tax purposes of decommissioning provisions recognised by Nuclear Decommissioning Authority) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (b) substitute—

“(b) that responsibility—

- (i) includes the financial responsibility under section 21, or
- (ii) would do so but for the fact that the amount of the financial responsibility is for the time being subject to a limit imposed by a capping agreement;”;

(b) in paragraph (c) omit “on the coming into force of the direction mentioned in paragraph (a),”;

(c) at the end of that paragraph insert “; and

(d) the provision is recognised—

- (i) in order to reflect the coming into force of the direction mentioned in paragraph (a), or
- (ii) in consequence of the variation or removal of a limit on the NDA's financial responsibility under section 21 imposed by a capping agreement.”

(3) For subsection (3) substitute—

“(3) In computing the profits, gains or losses of the NDA for the purposes of corporation tax, no amount shall be brought into account in connection with—

(a) the recognition made in the accounts of the NDA of—

- (i) the relevant provision, or
- (ii) an asset that, in accordance with generally accepted accounting practice, is recognised in order to reflect a limit on

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2006 is up to date with all changes known to be in force on or before 09 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- the NDA's financial responsibility under section 21 imposed by a capping agreement;
- (b) any adjustment made in those accounts (including the removal from the accounts of an asset falling within paragraph (a)(ii)) in consequence of a variation or removal of the limit mentioned in paragraph (a)(ii).”
- (4) In subsection (4), for the words after “in connection with” substitute “ an adjustment not falling within paragraph (b) of that subsection ”.
- (5) In subsection (5), after the definition of “BNFL company” insert—
- ““capping agreement” has the same meaning as in section 29;”.
- (6) The amendments made by this section have effect in relation to accounting periods of the Nuclear Decommissioning Authority ending on or after 22nd March 2006.

#### *Accounting practice*

### **101 Securitisation companies**

- (1) Section 83 of FA 2005 (application of accounting standards to securitisation companies) is amended as follows.
- (2) In subsection (1)(b) (periods of account in relation to which old UK GAAP is to apply) for “1st January 2007” substitute “ 1st January 2008 ”.
- (3) In subsection (3) (meaning of “note-issuing company”)—
- (a) omit “and” at the end of paragraph (c);
- (b) after paragraph (d) insert—
- “, and
- (e) if it has any business apart from the activity mentioned in paragraph (a) (and any incidental activities) it consists in one or both of the following—
- (i) acquiring, holding and managing assets forming the whole or part of the security for the capital market arrangement;
- (ii) acting as guarantor in respect of loan relationships, derivative contracts, finance leases or other liabilities of other companies where the whole, or substantially the whole, of the company's rights in respect of the guarantee (including any right of subrogation) form the whole or part of the security for the capital market arrangement.”.
- (4) In subsection (5) (meaning of “intermediate borrowing company”)—
- (a) in paragraph (a) after “asset-holding company”, and
- (b) in paragraph (b) after “note-issuing company”,
- insert “ (or another intermediate borrowing company) ”.

<sup>F51</sup>(5) .....

*Status: Point in time view as at 31/12/2020.*

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- (6) The amendments in this section shall be deemed always to have had effect, subject as follows.
- (7) A company that would have been a securitisation company for the purposes of section 83 of FA 2005 if the amendments in this section had not been made, being either—
- (a) a note-issuing company that—
    - (i) had become party as debtor to the capital market investment before 22nd March 2006, or
    - (ii) had before that date entered into a binding arrangement to become a party as debtor to the capital market investment, or
  - (b) another description of securitisation company by virtue of its connection with a company within paragraph (a),
- may elect to be taxed as if the amendments in subsection (3) had not been made.
- (8) Any such election must be made not later than 31st March 2007 and has effect for all relevant periods of account.

#### **Textual Amendments**

**F51** S. 101(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### **102 Accountancy change: spreading of adjustment**

- (1) Schedule 15 to this Act (accountancy change: spreading of adjustment) has effect.
- (2) In that Schedule—  
Part 1 makes provision for income tax purposes, and  
Part 2 makes provision for corporation tax purposes.
- (3) In section 21B of ICTA (corporation tax: application to Schedule A business of other rules applicable to Case 1 of Schedule D) for “section 44 of and Schedule 6 to the Finance Act 1998” substitute “section 64 of and Schedule 22 to the Finance Act 2002”.

## **PART 4**

### **REAL ESTATE INVESTMENT TRUSTS**

#### *Introduction*

### **<sup>F52</sup>103 Real Estate Investment Trusts**

.....

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**<sup>F52</sup>104 Property rental business**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**<sup>F52</sup>105 Other key concepts**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**<sup>F52</sup>106 Conditions for company**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**<sup>F52</sup>107 Conditions for tax-exempt business**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**<sup>F52</sup>108 Conditions for balance of business**

.....

*Status: Point in time view as at 31/12/2020.*

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**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

*Entering Real Estate Investment Trust Regime*

**F52 109 Notice**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**F52 110 Duration**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**F52 111 Effects of entry**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**F52 112 Entry charge**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

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### *Assets etc*

#### **F52 113 Ring-fencing of tax-exempt business**

.....

##### **Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

#### **F52 114 Maximum shareholding**

.....

##### **Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

#### **F52 115 Profit: financing-cost ratio**

.....

##### **Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

#### **F52 116 Minor or inadvertent breach**

.....

##### **Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

#### **F52 117 Cancellation of tax advantage**

.....

##### **Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)



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## <sup>F52</sup> 118 Funds awaiting re-investment

.....

### Textual Amendments

- F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

### *Profits*

## <sup>F52</sup> 119 Corporation tax

.....

### Textual Amendments

- F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

## <sup>F52</sup> 120 Calculation of profits

.....

### Textual Amendments

- F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

## <sup>F52</sup> 121 Distributions: liability to tax

.....

### Textual Amendments

- F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

## 122 Distributions: deduction of tax

<sup>F53</sup> .....

### Textual Amendments

- F53** S. 122 repealed (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1031, Sch. 1 para. 620, **Sch. 3 Pt. 1** (with transitional provisions and savings in Sch. 2)

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Finance Act 2006 is up to date with all changes known to be in force on or before 09 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## F52 123 Attribution of distributions

.....

### Textual Amendments

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

### *Capital gains*

## F52 124 Corporation tax

.....

### Textual Amendments

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

## F52 125 Movement of assets out of ring-fence

.....

### Textual Amendments

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

## F52 126 Movement of assets into ring-fence

.....

### Textual Amendments

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

## F52 126A Demergers

.....

### Textual Amendments

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

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**F52 127 Interpretation**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

*Leaving Real Estate Investment Trust Regime*

**F52 128 Termination by notice: company**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**F52 129 Termination by notice: Commissioners**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**F52 130 Automatic termination for breach of requirement**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

**F52 131 Effects of cessation**

.....

**Textual Amendments**

**F52** Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(a), **Sch. 3 Pt. 1** (with Sch. 2)

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**F52 132 Early exit by notice**

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|--|
| <p><b>Textual Amendments</b></p> <p><b>F52</b> Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by <a href="#">Corporation Tax Act 2010 (c. 4)</a>, s. 1184(1), Sch. 1 para. 483(a), <b>Sch. 3 Pt. 1</b> (with Sch. 2)</p> |
|--|

**F52 133 Early exit**

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|--|
| <p><b>Textual Amendments</b></p> <p><b>F52</b> Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by <a href="#">Corporation Tax Act 2010 (c. 4)</a>, s. 1184(1), Sch. 1 para. 483(a), <b>Sch. 3 Pt. 1</b> (with Sch. 2)</p> |
|--|

*Groups*

**F52 134 Group Real Estate Investment Trusts**

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|--|
| <p><b>Textual Amendments</b></p> <p><b>F52</b> Ss. 103-134 repealed (with effect in accordance with s. 1184(1) of the amending Act) by <a href="#">Corporation Tax Act 2010 (c. 4)</a>, s. 1184(1), Sch. 1 para. 483(a), <b>Sch. 3 Pt. 1</b> (with Sch. 2)</p> |
|--|

**135 Transfer within group**

After section 171(2)(d) of TCGA 1992 (transfer within a group: exclusions) insert—

“; or

(da) a disposal by or to a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts);”.

**F54 136 Availability of group reliefs**

.....

|   |
|---|
| <p><b>Textual Amendments</b></p> <p><b>F54</b> S. 136 repealed (with effect in accordance with s. 1184(1) of the amending Act) by <a href="#">Corporation Tax Act 2010 (c. 4)</a>, s. 1184(1), Sch. 1 para. 483(b), <b>Sch. 3 Pt. 1</b> (with Sch. 2)</p> |
|---|

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## Miscellaneous

### <sup>F55</sup> 136A Connected persons

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#### Textual Amendments

**F55** S. 136A repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(c), **Sch. 3 Pt. 1** (with Sch. 2)

### 137 Insurance companies

In section 212(1) of TCGA 1992 (annual deemed disposal of holdings of certain assets) after paragraph (b) insert—

“, or

(c) shares in a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts).”

### <sup>F56</sup> 138 Joint ventures

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#### Textual Amendments

**F56** S. 138 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(d), **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F57</sup> 139 Manufactured dividends

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#### Textual Amendments

**F57** S. 139 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(e), **Sch. 3 Pt. 1** (with Sch. 2)

### 140 Penalties for failure to give notice, etc

At the end of the second column of the Table in section 98(5) of TMA 1970 (penalties) add—

“Section 106 of FA 2006 as modified by Schedule 17 to that Act.

Section 116 of FA 2006.

Regulations under section 116 of FA 2006.

Regulations under section 122 of FA 2006.

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Section 130 of FA 2006.”

<sup>F58</sup> **141 Effect of deemed disposal and re-acquisition**

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**Textual Amendments**  
**F58** S. 142 repealed (with effect in accordance with s. 1184(1) of the amending Act, 1.4.2010) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(f), **Sch. 3 Pt. 1** (with Sch. 2)

<sup>F58</sup> **142 Interpretation**

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**Textual Amendments**  
**F58** S. 142 repealed (with effect in accordance with s. 1184(1) of the amending Act, 1.4.2010) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(f), **Sch. 3 Pt. 1** (with Sch. 2)

**143 Housing investment trusts: repeal**

Section 160 of, and Schedule 30 to, FA 1996 (housing investment trusts) shall cease to have effect (and accordingly—

- (a) sections 508A and 508B of ICTA shall cease to have effect,
- (b) the amendments of section 842(1)(a) and (e) of ICTA effected by paragraph 2(2) of Schedule 30 shall cease to have effect, and
- (c) section 842(1AA) of ICTA shall cease to have effect).

*General*

<sup>F59</sup> **144 Regulations**

.....

**Textual Amendments**  
**F59** S. 144 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(g), **Sch. 3 Pt. 1** (with Sch. 2)

**145 Commencement**

<sup>F60</sup>(1).....

- (2) Section 143 shall have effect in relation to accounting periods beginning on or after the day on which this Act is passed.

*Status: Point in time view as at 31/12/2020.*

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### Textual Amendments

**F60** S. 145(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 483(h), **Sch. 3 Pt. 1** (with Sch. 2)

## PART 5

### OIL

#### *New basis for determining market value*

#### **146 New basis for determining the market value of oil**

- (1) In OTA 1975, in Schedule 3 (petroleum revenue tax: miscellaneous provisions) before paragraph 2 (definition of market value of oil) insert—

#### **“Determination of market value: the notional delivery day for a quantity of oil**

- 1A (1) This paragraph has effect for determining, for the purposes of this Schedule, the day which is the “notional delivery day” in the case of any particular quantity of oil of any particular kind whose market value falls to be determined in accordance with the provisions of this Schedule in the case of any chargeable period.
- (2) The notional delivery day need not be a day in the chargeable period.
- (3) In the case of a quantity of oil which, at the end of the chargeable period,—
- (a) has neither been disposed of nor relevantly appropriated in the period, or
  - (b) has been disposed of but not delivered in the period,
- the notional delivery day is the last business day of the chargeable period.
- (4) In the case of—
- (a) a quantity of oil won and disposed of which is delivered on a day in the chargeable period, or
  - (b) a quantity of oil—
    - (i) relevantly appropriated on a day in the chargeable period, but
    - (ii) not disposed of in the chargeable period,
- the notional delivery day is to be determined in accordance with sub-paragraphs (5) to (7) below.
- (5) If that oil is—
- (a) oil transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, or
  - (b) oil transported by pipeline to a place in the United Kingdom and loaded on to a ship there,
- and there is a loading slot for it (see sub-paragraph (8)), the notional delivery day is the middle day of the loading slot.

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- (6) If sub-paragraph (5) above does not apply to that oil, then—
- (a) if it is oil delivered on a day in the chargeable period, the notional delivery day is the date of the delivery, or
  - (b) if it is oil relevantly appropriated on a day in the chargeable period, the notional delivery day is the date of the appropriation.
- (7) The Treasury may by regulations make provision for or in connection with substituting as the notional delivery day in such circumstances as may be prescribed—
- (a) in the case of oil transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, the date of completion of load, or
  - (b) in the case of oil transported by pipeline to a place in the United Kingdom and loaded on to a ship there, the date of the bill of lading.
- (8) The “loading slot” for any oil is the period of three days within which the loading of the oil on to the ship is or was to take place—
- (a) as duly published by the operator of the facility at which that loading is or was to take place (unless paragraph (b) below applies), or
  - (b) as subsequently finally duly varied to give effect to any modifications duly notified to that operator by the participator concerned.
- (9) In sub-paragraph (8) above, “duly” means in accordance with the arrangements for the time being governing the time and manner of—
- (a) publication, or variation, of the final loading schedule for the calendar month in which loading is or was to take place, or
  - (b) notification of modifications to that schedule,
- and, in any case, before the end of the calendar month immediately preceding that in which loading is to take place.
- (10) If the Treasury consider that, for the purpose of defining “loading slot”, any period of days for the time being specified by or under this Act as the period of days within which loading of oil on to a ship is to take place is, or is to be, no longer appropriate, they may by regulations make provision for, or in connection with,—
- (a) varying the number of days in the period,
  - (b) determining the day that is to be the notional delivery day if the number, as varied, is an even number.

The power conferred by this sub-paragraph includes power to make amendments to, or modifications of, this Schedule.”.

- (2) Paragraph 2 of that Schedule (definition of market value of oil) is amended as follows.
- (3) In sub-paragraph (1) (market value of oil in any calendar month to be determined in accordance with the paragraph) for “any oil in any calendar month” substitute “ any particular quantity of oil of any kind on any day ”.
- (4) After sub-paragraph (1) insert—



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“(1A) This paragraph makes different provision according to whether the oil is—

- (a) Category 1 oil of any kind, or
- (b) Category 2 oil of any kind.

(1B) For the purposes of this Act—

- (a) Category 1 oil is oil of any of one or more kinds specified as such in regulations made for the purpose by the Board;
- (b) Category 2 oil is oil of any other kind.

(1C) The Board may specify oil of any particular kind as Category 1 oil only if they are satisfied that reports of prices for sales of oil of that kind are published and widely available (whether or not on payment of a fee).”.

(5) For sub-paragraph (2) substitute—

“(2) The market value of any particular quantity of Category 1 oil of any kind is the price for which that quantity of oil of that kind might reasonably have been expected to be sold under a contract of sale that meets the following conditions—

- (a) the contract is for the sale of the oil at arm's length to a willing buyer;
- (b) the contract is for delivery of a single standard cargo of the oil;
- (c) the contract specifies a period of three days within which loading of the oil is to take place and that period includes the notional delivery day for the actual oil;
- (d) the contract requires the oil to have been subjected to appropriate initial treatment before delivery;
- (e) the contract requires the oil to be delivered—
  - (i) in the case of oil extracted in the United Kingdom, at the place of extraction; or
  - (ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.

The terms as to payment which are to be implied in the contract are those which are customarily contained in contracts for the sale at arm's length of oil of the kind in question.

(2AA) The market value of any particular quantity of Category 2 oil of any kind is the price for which that quantity of oil of that kind might reasonably have been expected to be sold under a contract of sale that meets the following conditions—

- (a) the contract is for the sale of the oil at arm's length to a willing buyer;
- (b) the contract provides for delivery of the oil on the notional delivery day for the actual oil or within such period that includes that day as is normal under a contract at arm's length for the sale of oil of that kind (or, if there is more than one such period, the shortest of them);
- (c) the contract is made on a date such that the period between that date and the notional delivery day for the actual oil is the normal period between contract and delivery in the case of a contract at arm's length

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- for the sale of oil of that kind (or, if there is more than one such period, the shortest of them);
- (d) the contract requires the oil to have been subjected to appropriate initial treatment before delivery;
  - (e) the contract requires the oil to be delivered—
    - (i) in the case of oil extracted in the United Kingdom, at the place of extraction; or
    - (ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.

The terms as to payment which are to be implied in the contract are those which are customarily contained in contracts for the sale at arm's length of oil of the kind in question.”.

(6) For sub-paragraphs (2A) to (2D) substitute—

“(2E) For the purposes of sub-paragraph (2) or (2AA) above, the price of any quantity of Category 1 or Category 2 oil of any kind shall be determined in such manner, on the basis of such information, and by reference to such factors, as may be prescribed for oil of that Category and kind in regulations made by the Board.

(2F) The provision that may be made by regulations under subsection (2E) above includes provision for or in connection with any or all of the following—

- (a) determining the price by reference to prices, or an average of prices, for sales of oil (whether or not oil of the Category or kind in question, and whether the prices are prices under actual contracts, prices that are published and widely available (whether on payment of a fee or otherwise) or prices ascertained or determined in some other way);
- (b) the prices to be taken into account;
- (c) the descriptions of contracts to be taken into account;
- (d) the method to be used for determining an average of prices;
- (e) the day or days, or period or periods, by reference to which prices, or any average of prices, is to be determined;
- (f) the application of a prescribed price differential, in cases where the price of oil of one kind falls to be determined in whole or in part by reference to prices for oil of some other kind.

(2G) Sub-paragraph (2I) below has effect if, or in so far as, the Board are satisfied that it is impracticable or inappropriate to determine for the purposes of sub-paragraph (2) or (2AA) above the price of any oil in accordance with the provisions of regulations for the time being in force under sub-paragraph (2E) above.

(2H) For that purpose it is immaterial whether the impracticability or inappropriateness is by virtue of—

- (a) an insufficiency of contracts or published prices that satisfy the conditions,

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- (b) an insufficiency of information relating to such contracts or published prices, or
  - (c) the nature of the market for oil of the kind in question, or for any other reason.
- (2I) Where this sub-paragraph has effect, the price is to be determined—
  - (a) so far as it is practicable and appropriate to do so by reference to other contracts or published prices (whether or not relating to oil of the same kind) and in accordance with the principles set out in the regulations for determining an average of prices; and
  - (b) so far as it is not practicable or appropriate to determine it as mentioned in paragraph (a) above, in such other manner as appears to the Board to be appropriate in the circumstances.”.
- (7) Omit sub-paragraph (3) (which relates to the market value of disposals in a calendar month).
- (8) In sub-paragraph (3A) (oil that has been subjected to initial treatment)—
  - (a) for “sub-paragraphs (1) and (2) above” substitute “ sub-paragraph (1) and sub-paragraph (2) or (2AA) above ”, and
  - (b) for “sub-paragraph (2)(a) above” substitute “ sub-paragraph (2)(d) or (2AA) (d) above ”.
- (9) In sub-paragraph (4) (application of sub-paragraphs (2) and (3) in relation to paragraph 2(2) of Schedule 2) for “sub-paragraphs (2) and (3)” substitute “ sub-paragraphs (2) and (2AA) ”.
- (10) After paragraph (4) insert—
  - “(5) In this paragraph “prescribed” means specified in, or determined in accordance with, regulations.”.
- (11) Schedule 18 (which makes minor and consequential amendments) has effect.

#### **147 Section 146: commencement and transitional provisions**

- (1) The amendments made by section 146 and Schedule 18 have effect in relation to oil delivered or appropriated on or after 1st July 2006 (disregarding section 12A of that Act).
- (2) Those amendments also have effect for the purpose of determining for any chargeable period ending on or after 31st December 2006—
  - (a) the value to be brought into account under section 2(4)(b) of OTA 1975 by reference to a previous chargeable period ending on or after 30th June 2006, and
  - (b) the value to be brought into account under section 2(5)(d) of that Act.
- (3) Subsections (1) and (2) are subject to any express provision in Schedule 18 as to the commencement or application of any provision of that Schedule.
- (4) In the following provisions of this section—
  - (a) “the last old period” means the chargeable period that ends on 30th June 2006, and

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- (b) “the first new period” means the chargeable period that ends on 31st December 2006.
- (5) Subsection (6) applies in relation to oil which was won from an oil field before 1st July 2006 and which—
- (a) was loaded on to a ship before 1st July 2006 and transported from the place of extraction to a place in the United Kingdom or elsewhere, or
  - (b) was transported by pipeline from the place of extraction to a place in the United Kingdom and there loaded on to a ship before that date.
- (6) If the oil is or was disposed of crude by a participator in sales otherwise than at arm's length, but the market value of the oil—
- (a) does not fall to be brought into account for the purposes of section 2(5)(b) of OTA 1975 for the last old period by reason only that the oil was not delivered in that period, and
  - (b) would not (apart from this subsection) fall to be brought into account for the purposes of that provision in the first new period by reason only that the date on which the oil is to be regarded by virtue of section 12A of that Act as delivered falls in the last old period,
- the date on which the oil is to be taken for the purposes of section 2(5)(b) of that Act to have been delivered is instead to be the first business day of the first new period.
- (7) Any power to make regulations that is conferred under or by virtue of any of the amendments made by section 146 or Schedule 18 includes power to make regulations having effect for, or in relation to,—
- (a) the first new period, or
  - (b) for the purpose mentioned in subsection (2), the last old period,
- notwithstanding that the period in question has begun or ended before the making of the regulations.
- (8) Any regulations made by virtue of subsection (7) must be made before 31st December 2006.

*Attribution of blended crude oil*

**148 Crude oil: power to make regulations**

- (1) In section 2(5) of OTA 1975 (profits from oil field) for “subsection (5A)” substitute “subsections (5A) and (5B)”.
- (2) After section 2(5A) of that Act insert—
  - “(5B) The Board may by regulations make provision for the purposes of subsection (5)(a) to (c) for determining to which fields and in what proportions blended oil to which subsection (5C) applies is attributable.
  - (5C) This subsection applies to blended oil within the meaning of section 63(1A) of the Finance Act 1987 (other than light gases) which—
    - (a) is not gaseous at a temperature of 15 degrees Centigrade and a pressure of one atmosphere, and
    - (b) is not normally disposed of crude by deliveries in quantities of 25,000 metric tonnes or less.

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- (5D) Regulations under subsection (5B)—
- (a) may apply generally or only to specified cases or circumstances,
  - (b) may make different provision for different cases or circumstances,
  - (c) may make incidental, consequential, or transitional provision,
  - (d) shall be made by statutory instrument, and
  - (e) may not be made unless a draft has been laid before and approved by resolution of the House of Commons.”
- (3) Regulations under section 2(5B) of OTA 1975 (inserted by subsection (2) above) may have effect for the purpose of calculating profits in relation to a chargeable period ending at any time on or after 1st July 2006.

#### *Nomination scheme*

### **149 Nomination scheme**

- (1) Section 61 of FA 1987 (oil taxation: nominations) shall be amended as follows.
- (2) In subsection (1) omit “, supplies and appropriations”.
- (3) For subsections (3) and (4) substitute—
- “(3) If the market value of a relevant delivery ascertained in accordance with Schedule 3 to the principal Act exceeds a participator's delivery proceeds of a relevant delivery (within the meaning given by Schedule 10), the excess shall be brought into account by him in accordance with section 2(5)(e) of the principal Act.
  - (4) If a relevant delivery is a delivery of blended oil within the meaning of section 63, regulations under section 2(5B) of the principal Act shall apply for the purposes of determining the proportion of the excess attributable to a field.
  - (4A) For each month in which a participator makes a relevant delivery, his monthly excess is the sum of his excesses (if any) calculated in accordance with subsection (3).
  - (4B) For each chargeable period of an oil field “the excess of nominated proceeds for the period” means, in relation to a participator in the oil field, that proportion of the sum of his monthly excesses for the chargeable period (if any) which is attributable to the field.”
- (4) Subsections (6) and (7) shall cease to have effect.
- (5) In subsection (8) for “9th February 1987” substitute “ 1st July 2006 ”.
- (6) In subsection (9)—
- (a) omit “subsection (7) or”, and
  - (b) after “shall” insert “ (unless otherwise expressly provided) ”.
- (7) This section shall have effect in relation to chargeable periods ending on or after 1st July 2006.

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## 150 Amendment of Schedule 10 to FA 1987

- (1) Schedule 10 to FA 1987 (oil taxation: nominations) shall be amended as follows.
- (2) In paragraph 1—
  - (a) in sub-paragraph (1)—
    - (i) omit “, “proposed supply” and “proposed appropriation””,
    - (ii) for “paragraph 3 below” substitute “ paragraph 12A below ”, and
    - (iii) for “paragraphs (a) to (c)” substitute “ paragraph (a) ”, and
  - (b) omit sub-paragraph (2).
- (3) In paragraph 2 omit—
  - (a) sub-paragraph (1)(b), (c) and (d), and
  - (b) the words following sub-paragraph (1)(d).
- (4) Omit paragraph 3.
- (5) In paragraph 4—
  - (a) for sub-paragraph (1) substitute—
    - “(1) If a nomination is made during business hours it shall be effective only if—
      - (a) it is made within the period of two hours beginning with the transaction base time, and
      - (b) it satisfies the requirements of paragraph 5.
    - (1A) If a nomination is made outside business hours it shall be effective only if—
      - (a) it is made within the period of two hours beginning with the transaction base time, and
      - (b) it satisfies the requirements of paragraph 5 or 5A.
    - (1B) For the purposes of this paragraph—
      - (a) the transaction base time of a proposed transaction is such time on such date as the Board shall prescribe by regulations, and
      - (b) “business hours” means the period beginning with 09.00 and ending with 17.00 (UK time) on a business day (within the meaning of the Bills of Exchange Act 1882 (c. 61)).”
  - (b) omit sub-paragraphs (2) and (2A),
  - (c) in sub-paragraph (3)—
    - (i) for “transaction base date” substitute “ transaction base time ”, and
    - (ii) for “date” in each place substitute “ time ”, and
  - (d) omit sub-paragraph (4).
- (6) In paragraph 5—
  - (a) in sub-paragraph (1) for “A nomination of a proposed transaction shall not be effective unless it specifies, in respect to that transaction” substitute “ The requirements of this paragraph for a nomination in respect of a proposed transaction are ”,
  - (b) in sub-paragraph (1)(b) omit “in the case of a proposed sale”,
  - (c) in sub-paragraph (1)(c) and (d) omit “or relevantly appropriated”,

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- (d) in sub-paragraph (1)(d) for “supplied” substitute “ delivered ”,
  - (e) for sub-paragraph (1)(g) substitute—
    - “(g) the transaction base time; and”,
  - (f) in sub-paragraph (2) after “A nomination” insert “ made under this paragraph ”, and
  - (g) in sub-paragraph (3) after “a nomination” insert “ made under this paragraph ”.
- (7) After paragraph 5 insert—

“5A (1) The requirements of this paragraph for a nomination in respect of a proposed transaction are—

- (a) the name of the participator or of the group of which the participator is a member;
- (b) the name of the person to whom the oil is to be sold, or the name of the group of which that person is a member;
- (c) the blend or grade of oil to be delivered;
- (d) the nominated price of the oil to be delivered;
- (e) the nominal volume of the oil;
- (f) the proposed delivery month;
- (g) the transaction base time; and
- (h) such other information as may be prescribed by the Board.

(2) In sub-paragraph (1) “group” has the meaning given by section 53 of the Companies Act 1989.

5B

(1) A nomination of a transaction shall not be effective unless oil is delivered pursuant to a contract at arm's length the terms of which incorporate the information specified in the nomination in accordance with paragraph 5(1) or 5A(1).

(2) But—

- (a) a contract need not refer to the transaction base time, and
- (b) the nomination shall be effective whether or not delivery takes place in the proposed delivery month specified in the nomination and the contract.”

(8) In paragraph 6—

- (a) in sub-paragraph (1) omit “Subject to sub-paragraph (3) below,” and
- (b) omit sub-paragraphs (2) and (3).

(9) Omit paragraph 7(2) and (5).

(10) After paragraph 7(5) insert—

“(6) The Board may by regulations prescribe that in specified circumstances the nominal volume in relation to a delivery shall be treated as greater or less than the nominal volume ascertained in accordance with the preceding provisions of this paragraph.

(7) Regulations under sub-paragraph (6)—

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- (a) shall be made by statutory instrument, and
  - (b) may not be made unless a draft has been laid before and approved by resolution of the House of Commons.”
- (11) Omit paragraphs 8 to 11.
- (12) In paragraph 12(1) omit “, supply or appropriation”.
- (13) After paragraph 12 insert—

#### 12A “**Interpretation**

For the purposes of section 61 and this Schedule—

- (a) a reference to the proposed delivery month in relation to a proposed transaction is a reference to the month in which delivery is to take place,
  - (b) “relevant delivery” means a delivery of oil under a contract made at arm's length in respect of which there has been no effective nomination, and
  - (c) “delivery proceeds” means the price received for a relevant delivery.”
- (14) This section shall have effect in relation to a transaction whenever proposed, but shall not have effect in relation to a proposed transaction with a transaction base date (within the meaning given by regulations under paragraph 4 of Schedule 10 to FA 1987) on or before 30th June 2006.
- (15) Regulations under paragraph 4(1B) of Schedule 10 to FA 1987 (inserted by subsection (5) above) may have retrospective effect.

#### <sup>F61</sup> **151 Nomination excesses and corporation tax**

.....

##### **Textual Amendments**

**F61** S. 151 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 6](#) (with [Sch. 9 paras. 1-9, 22](#)) and repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 3 Pt. 2](#) (with [Sch. 2](#))

#### *Ring fence trades*

#### **152 Increase in rate of supplementary charge**

- (1) In section 501A of ICTA (supplementary charge in respect of ring fence trades), in subsection (1) (charge of 10 per cent on adjusted ring fence profits), for “10 per cent” substitute “20 per cent”.
- (2) The amendment made by subsection (1) has effect in relation to any accounting period beginning on or after 1st January 2006 (but see also subsection (3)).



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- (3) For the purpose of calculating the amount of the supplementary charge on a company for an accounting period (a “straddling period”) beginning before 1st January 2006 and ending on or after that date—
  - (a) so much of the straddling period as falls before 1st January 2006, and so much of the straddling period as falls on or after that date, are treated as separate accounting periods, and
  - (b) the company's adjusted ring fence profits for the straddling period are apportioned to the two separate accounting periods in proportion to the number of days in those periods.
- (4) The amount of the supplementary charge on the company for the straddling period is the sum of the amounts of supplementary charge that would, in accordance with subsection (3), be chargeable on the company for those separate accounting periods.
- (5) In the case of a company's straddling period—
  - (a) the Instalment Payments Regulations apply as if the amendment made by subsection (1) had not been made, but
  - (b) those Regulations also apply separately, in accordance with the following subsection, in relation to the increase in the amount of any supplementary charge on the company for that period that arises as a result of that amendment.
- (6) In that separate application of those Regulations as mentioned in subsection (5)(b), those Regulations have effect as if, for the purposes of those Regulations,—
  - (a) the straddling period were an accounting period beginning on 1st January 2006,
  - (b) supplementary charge were chargeable on the company for that period, and
  - (c) the amount of that charge were equal to the increase in the amount of the supplementary charge for the straddling period that arises as a result of the amendment made by subsection (1).
- (7) Any reference in the Instalment Payments Regulations to the total liability of a company is, accordingly, to be read—
  - (a) in their application as a result of subsection (5)(a), as a reference to the amount that would be the company's total liability for the straddling period if the amendment made by subsection (1) had not been made, and
  - (b) in their application as a result of subsection (5)(b), as a reference to the amount of the supplementary charge on the company for the deemed accounting period under subsection (6)(a).
- (8) For the purposes of the Instalment Payments Regulations—
  - (a) a company is to be regarded as a large company as respects the deemed accounting period under subsection (6)(a) if (and only if) it is a large company for those purposes as respects the straddling period, and
  - (b) any question whether a company is a large company as respects the straddling period is to be determined as it would have been determined if the amendment made by subsection (1) had not been made.
- (9) If the Instalment Payments Regulations—
  - (a) apply in relation to a company's liability to supplementary charge for the deemed accounting period under subsection (6)(a), and

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- (b) would (but for this subsection) treat any instalment payment in respect of that liability as being due and payable on a date falling on or before 22nd March 2006,

those Regulations have effect as if the payment were due and payable instead at the end of the period of 14 days beginning with that date.

- (10) In this section—

“adjusted ring fence profits” has the meaning given by section 501A of ICTA,

“the Instalment Payments Regulations” means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/ 3175),

“supplementary charge” means any sum chargeable under section 501A(1) of ICTA as if it were an amount of corporation tax.

### 153 Election to defer capital allowances

- (1) This section applies if—

- (a) a company carries on a ring fence trade in an accounting period beginning on or after 1st January 2006,
- (b) relevant expenditure is incurred for the purposes of or in relation to the ring fence trade (see subsections (4) to (7)), and
- (c) the relevant expenditure would (but for this section) be treated as incurred for the purposes of CAA 2001 in the period of 12 months ending with 31st December 2005.

- (2) The company may elect for the relevant expenditure to be treated instead as if it were incurred on the first day of the company's first accounting period beginning on or after 1st January 2006.

- (3) The election—

- (a) has effect for the purposes of CAA 2001 other than those of section 45G (expenditure not first-year qualifying expenditure under section 45F if plant or machinery used for less than 5 years in a ring fence trade), and
- (b) must be made by notice given to an officer of Revenue and Customs on or before 31st December 2007.

- (4) Expenditure is relevant expenditure if it falls within any of Cases A to C.

- (5) Expenditure falls within Case A if—

- (a) it is first-year qualifying expenditure on the provision of plant or machinery under section 45F of CAA 2001 (expenditure on plant and machinery for use wholly in a ring fence trade), and
- (b) no disposal event (see subsection (8)) in relation to the plant or machinery occurs in the relevant period.

- (6) Expenditure falls within Case B—

- (a) if it is first-year qualifying expenditure under section 416B of CAA 2001 (mineral extraction allowances: expenditure incurred by a company for purposes of a ring fence trade),
- (b) if no disposal event in relation to any asset representing the expenditure occurs in the relevant period,

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- (c) if (or so far as) it is expenditure to which no part of any capital sum received by the company in the relevant period is reasonably attributable under section 425(2) of CAA 2001, and
- (d) if no entitlement to a balancing allowance for a chargeable period in respect of the expenditure arises under any of sections 426 to 431 of CAA 2001 as a result of an event that occurs in the relevant period (as well as in that chargeable period).

The reference in paragraph (b) to any asset representing the expenditure is to be read in accordance with section 416B(4) of CAA 2001.

(7) Expenditure falls within Case C if—

- (a) it is qualifying expenditure on research and development under Part 6 of CAA 2001 where the ring fence trade is the trade by reference to which the expenditure is qualifying expenditure, and
- (b) no disposal event in relation to any asset representing the expenditure occurs in the relevant period.

(8) In this section—

“disposal event”—

- (a) in relation to first-year qualifying expenditure under section 45F of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under Part 2 of that Act (whether under section 61(1) or otherwise),
- (b) in relation to first-year qualifying expenditure under section 416B of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under section 421 or 422 of that Act,
- (c) in relation to qualifying expenditure on research and development under Part 6 of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under section 443(1) of that Act,

“the relevant period”, in relation to any expenditure for the purposes of or in relation to a company's ring fence trade, means the period—

- (a) beginning with the day on which the expenditure would (but for this section) be treated as incurred for the purposes of CAA 2001, and
- (b) ending with the first day of the company's first accounting period beginning on or after 1st January 2006,

“ring fence trade” means a ring fence trade in respect of which tax is chargeable under section 501A of ICTA (supplementary charge in respect of ring fence trades).

## 154 Ring fence expenditure supplement

(1) Chapter 5 of Part 12 of ICTA (petroleum extraction activities) is amended as follows.

<sup>F62</sup>(2) .....

(3) Schedule 19B (petroleum extraction activities: exploration expenditure supplement) is amended as follows.

(4) In paragraph 1 (about the Schedule)—

- (a) in sub-paragraph (1) (entitlement of company to supplement), in the opening words, after “2004” insert “ but before 1st January 2006 ”,

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- (b) in sub-paragraph (2) (condition that expenditure incurred on or after 1st January 2004), after “2004” insert “ but before 1st January 2006 ”.
- (5) In paragraph 3 (accounting periods)—
- (a) in sub-paragraph (1), in the definition of “post-commencement period”, after “2004” insert “ but before 1st January 2006 ”,
- (b) in sub-paragraph (1), in the definition of “pre-commencement period”, after “2004” insert “ but before 1st January 2006 ”,
- (c) at the end insert—
- “(3) In the case of an accounting period (a “straddling period”) of any qualifying company beginning before 1st January 2006 and ending on or after that date—
- (a) so much of the straddling period as falls before 1st January 2006, and
- (b) so much of the straddling period as falls on or after that date,
- are treated as separate accounting periods for the purposes of this Schedule.
- (4) Special provision is made elsewhere in this Schedule in relation to straddling periods (see paragraphs 16, 18A and 22).”.
- (6) In paragraph 6 (qualifying E&A expenditure), in sub-paragraph (2) (condition that expenditure incurred on or after 1st January 2004), after “2004” insert “ but before 1st January 2006 ”.
- (7) In paragraph 15 (supplement in respect of a post-commencement period), in sub-paragraph (2) (supplement to be treated as a loss for the purposes of Corporation Tax Acts), for “this Schedule)” substitute “ this Schedule or Part 4 of Schedule 19C )”.
- (8) In paragraph 16 (amount of post-commencement supplement for a post-commencement period), after sub-paragraph (2) (proportionate reduction of supplement if post-commencement period less than 12 months) insert—
- “(2A) But, if the post-commencement period is the deemed accounting period under paragraph 3(3) ending before 1st January 2006, sub-paragraph (2) has no effect in relation to the amount of the supplement for that period.”.
- (9) After paragraph 18 (ring fence losses and non-qualifying losses) insert—

#### 18A “Special rule for straddling periods

- (1) This paragraph applies in any case where the period of the loss in which a ring fence loss is incurred is the deemed accounting period under paragraph 3(3) ending before 1st January 2006.
- (2) The following assumption shall be made for the purpose of calculating the amount of the qualifying E&A loss and the amount of the non-qualifying loss.
- (3) The assumption is that the loss made in the trade is taken to be the loss incurred in the accounting period beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).
- (4) The amount of the non-qualifying loss (found in accordance with that assumption) is then reduced (but not below nil) by the following amount.

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- (5) The amount is the amount of the ring fence loss in the deemed accounting period beginning on 1st January 2006 determined under paragraph 18 of Schedule 19C for the purposes of Part 4 of that Schedule.”
- (10) In paragraph 22 (reductions in respect of utilised ring fence profits), at the end insert—
- “(4) If the post-commencement period is the deemed accounting period under paragraph 3(3) ending before 1st January 2006 (“the deemed accounting period”), the amount of the profits of the deemed accounting period is determined as follows.
- (5) The amount of the profits of the straddling period is apportioned to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period.
- (6) The apportioned amount is taken for the purposes of this paragraph to be the amount of the profits of the deemed accounting period.
- (7) In this paragraph “the straddling period”, in relation to a qualifying company, means an accounting period of the company beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).”

<sup>F63</sup>(11) .....

#### Textual Amendments

- F62** S. 154(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F63** S. 154(11) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

## PART 6

### INHERITANCE TAX

#### *Future rates and bands*

#### **155 Rates and rate bands for 2008-09 and 2009-10**

- (1) For the Table in Schedule 1 to IHTA 1984 (rates and rate bands), as it has effect in relation to chargeable transfers made on or after 6th April 2008, there shall be successively substituted—
- (a) the 2008-09 Table, which shall apply to any chargeable transfer made on or after 6th April 2008 (but before 6th April 2009), and
- (b) the 2009-10 Table, which shall apply to any chargeable transfer made on or after 6th April 2009.
- (2) Subsection (1)(b) is without prejudice to the application of section 8 of IHTA 1984 (indexation) by virtue of the difference between the retail prices index for the month of September in 2008 or any later year and that for the month of September in the following year.

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(3) The 2008-09 Table is—

*“TABLE OF RATES OF TAX*

| <i>Portion of value</i> |                        | <i>Rate of tax</i> |
|-------------------------|------------------------|--------------------|
| <b>Lower limit (£)</b>  | <b>Upper limit (£)</b> | <b>Per cent.</b>   |
| 0                       | 312,000                | Nil                |
| 312,000                 |                        | 40”                |

(4) The 2009-10 Table is—

*“TABLE OF RATES OF TAX*

| <i>Portion of value</i> |                        | <i>Rate of tax</i> |
|-------------------------|------------------------|--------------------|
| <b>Lower limit (£)</b>  | <b>Upper limit (£)</b> | <b>Per cent.</b>   |
| 0                       | 325,000                | Nil                |
| 325,000                 |                        | 40”                |

(5) Section 8(1) of IHTA 1984 (indexation of rate bands) shall not have effect as respects any difference between the retail prices index—

- (a) for the month of September 2006 and that for the month of September 2007, or
- (b) for the month of September 2007 and that for the month of September 2008.

*Trusts*

**156 Rules for trusts etc**

- (1) Schedule 20 contains—
  - (a) amendments of provisions of IHTA 1984 relating to settled property,
  - (b) amendments of provisions relating to property that, for purposes of that Act, is property subject to a reservation, and
  - (c) related amendments of provisions relating to chargeable gains.
- (2) Those amendments have effect as mentioned in that Schedule.

**157 Purchase of interests in foreign trusts**

- (1) Section 48 of IHTA 1984 (settled property: excluded property) is amended as follows.
- (2) In subsection (3) (circumstances in which settled property situated outside the United Kingdom is excluded property), after paragraph (b) insert— “; but this subsection is subject to subsection (3B) below. ”.
- (3) In subsection (3A) (circumstances in which a holding in an authorised unit trust or a share in an open-ended investment company comprised in settled property is excluded property), after paragraph (b) insert— “; but this subsection is subject to subsection (3B) below. ”.

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(4) After subsection (3A) insert—

“(3B) Property is not excluded property by virtue of subsection (3) or (3A) above if—

- (a) a person is, or has been, beneficially entitled to an interest in possession in the property at any time,
- (b) the person is, or was, at that time an individual domiciled in the United Kingdom, and
- (c) the entitlement arose directly or indirectly as a result of a disposition made on or after 5th December 2005 for a consideration in money or money's worth.

(3C) For the purposes of subsection (3B) above—

- (a) it is immaterial whether the consideration was given by the person or by anyone else, and
- (b) the cases in which an entitlement arose indirectly as a result of a disposition include any case where the entitlement arose under a will or the law relating to intestacy.”.

(5) If, in consequence of the amendments made by this section, an amount of inheritance tax would (but for this subsection) fall due before the day on which this Act is passed, that amount is to be treated instead as falling due at the end of the period of 14 days beginning with that day.

(6) This section is deemed to have come into force on 5th December 2005.

## PART 7

### PENSIONS

#### **158 Taxable property held by investment-regulated pension schemes**

(1) Schedule 21 (taxable property held by investment-regulated pension schemes) has effect.

(2) This section and that Schedule are deemed to have come into force on 6th April 2006.

#### **159 Recycling of lump sums**

(1) In Schedule 29 to FA 2004 (authorised lump sums), after paragraph 3 insert—

“3A (1) Where this paragraph applies in relation to a pension commencement lump sum paid to the member, the pension scheme is to be treated as making to the member an unauthorised payment of the appropriate amount.

(2) Subject to sub-paragraphs (3) and (4), this paragraph applies in relation to a pension commencement lump sum if—

- (a) because of the lump sum, the amount of the contributions paid by or on behalf of, or in respect of, the member to the

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- pension scheme, or to any other registered pension scheme, is significantly greater than it otherwise would be, and
- (b) the member envisaged at the relevant time that that would be so.
- (3) This paragraph does not apply in relation to any lump sum paid to the member on any day if the amount of the lump sum, when added to any other pension commencement lump sum paid to the member within the period of 12 months ending with that day, does not exceed 1% of the standard lifetime allowance on that day.
- (4) This paragraph does not apply if the amount by which the contributions paid as mentioned in sub-paragraph (2)(a) is greater than it otherwise would be because of the lump sum does not exceed 30% of the amount of the lump sum.
- (5) “The appropriate amount” is so much of—
- (a) the amount crystallised by the benefit crystallisation event constituted by the payment of the lump sum, as does not exceed
- (b) the amount of the member's lifetime allowance which is available on it.
- (6) “The relevant time” is—
- (a) if paragraph (a) of sub-paragraph (2) is satisfied before the lump sum is paid, the time when that paragraph is first satisfied, and
- (b) otherwise, the time when the lump sum is paid.”
- (2) This section is deemed to have come into force on 6th April 2006.

## **160 Inheritance tax**

- (1) Schedule 22 (provisions about inheritance tax in relation to registered pension schemes) has effect.
- (2) This section and that Schedule are deemed to have come into force on 6th April 2006.

## **161 Miscellaneous**

- (1) Schedule 23 (miscellaneous amendments relating to pension schemes etc) has effect.
- (2) This section and that Schedule are deemed to have come into force on 6th April 2006.

## **PART 8**

### STAMP TAXES

#### *Stamp duty and stamp duty land tax: thresholds*

## **162 Raising of thresholds**

<sup>F64</sup>(1) .....

- (2) In Schedule 5 to FA 2003 (stamp duty land tax: amount of tax chargeable: rent), in paragraph 2(3) (calculation of tax chargeable in respect of rent), in Table A (bands



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and percentages for residential property), for “£120,000”, in both places, substitute “£125,000”.

- (3) In Schedule 13 to FA 1999 (stamp duty: instruments chargeable and rates of duty), in paragraph 4 (bands and percentages for conveyance or transfer on sale of property other than stock or marketable securities), for “£120,000”, in both places, substitute “£125,000”.
- (4) The amendments made by subsections (1) and (2) have effect in relation to any transaction of which the effective date (within the meaning of Part 4 of FA 2003) is after 22nd March 2006.
- (5) The amendment made by subsection (3) has effect in relation to instruments executed after 22nd March 2006.

#### Textual Amendments

**F64** [S. 162\(1\)](#) omitted (with effect in accordance with s. 2(2) of the amending Act) by virtue of [Stamp Duty Land Tax Act 2015 \(c. 1\)](#), [Sch. para. 21\(a\)](#) (with s. 2(3)-(6))

### *Stamp duty land tax*

#### **163 Partnerships**

Schedule 24 (amendments of Schedule 15 to FA 2003) has effect.

#### **164 Leases**

- (1) In section 77 of FA 2003 (notifiable transactions), for subsection (2A) substitute—

“(2A) The assignment of a lease is notifiable if there is chargeable consideration for the assignment and either—

  - (a) the lease is for a term of seven years or more, or
  - (b) the consideration for the assignment is chargeable at a rate of 1% or higher, or would be so chargeable but for a relief.”
- (2) In Schedule 5 to FA 2003 (amount of tax chargeable: rent), in paragraph 3 (net present value of rent payable over term of lease), for “in year i” substitute “in respect of year i”.
- (3) Subsection (1) has effect in relation to any assignment of which the effective date (within the meaning of Part 4 of FA 2003) is on or after the day on which this Act is passed.
- (4) Subsection (2) has effect in relation to any lease granted or treated as granted on or after that day.
- (5) Schedule 25 (amendments of Schedule 17A to FA 2003) has effect.

#### **165 Reallocation of trust property as between beneficiaries**

- (1) In Schedule 16 to FA 2003 (trusts and powers), after paragraph 7 insert—

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### “Reallocation of trust property as between beneficiaries

8           Where—

- (a) the trustees of a settlement reallocate trust property in such a way that a beneficiary acquires an interest in certain trust property and ceases to have an interest in other trust property, and
- (b) the beneficiary consents to ceasing to have an interest in that other property,

the fact that he gives consent does not mean that there is chargeable consideration for the acquisition.”

- (2) Subsection (1) has effect in relation to any acquisition of which the effective date (within the meaning of Part 4 of FA 2003) is on or after the day on which this Act is passed.

## 166    Unit trust schemes

- (1) Part 4 of FA 2003 (stamp duty land tax) is amended as follows.
- (2) Omit section 64A (initial transfer of assets to trustees of unit trust scheme).
- (3) In section 101 (unit trust schemes)—
  - (a) in subsection (1) (application of Part (except for provisions mentioned in subsection (7)) to unit trust schemes) for “provisions” substitute “provision”, and
  - (b) in subsection (7) (provisions for the purposes of which unit trust schemes not to be treated as companies) omit from “section 53” to “companies), or”.
- (4) This section has effect in relation to any land transaction of which the effective date is, or is after, 22nd March 2006 (but see subsections (5) and (6)).
- (5) This section does not have effect in relation to—
  - (a) any land transaction which is effected in pursuance of a contract entered into and substantially performed before 2 p.m. on 22nd March 2006 (“the relevant time”), or
  - (b) any other land transaction which is effected in pursuance of a contract entered into before the relevant time and which is not an excluded transaction.
- (6) For this purpose, a land transaction effected in pursuance of a contract is an excluded transaction if—
  - (a) any provision of the contract has effect by reference to a unit trust scheme and the scheme is not established before the relevant time,
  - (b) at or after the relevant time the contract is varied in a way that significantly affects the land transaction (see subsection (7)),
  - (c) the subject-matter of the land transaction is not identified in the contract in a way that would have enabled its acquisition before the relevant time,
  - (d) rights under the contract are assigned at or after the relevant time,
  - (e) the land transaction is effected in consequence of the exercise, at or after the relevant time, of any option, right of pre-emption or similar right, or
  - (f) at or after the relevant time there is an assignment, subsale or other transaction (relating to the whole or part of the contract's subject-matter) as a result of

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which a person other than the purchaser under the contract becomes entitled to call for a conveyance to him.

- (7) For the purposes of subsection (6)(b) the contract is varied in a way that significantly affects the land transaction if (and only if)—
- (a) it is varied so as to substitute a different purchaser in relation to the land transaction,
  - (b) it is varied so as to alter the subject-matter of the land transaction, or
  - (c) it is varied so as to alter the consideration for the land transaction.
- (8) Expressions which are used in Part 4 of FA 2003 and in this section have the same meaning in this section as in that Part.

## 167 Demutualisation of insurance companies

- (1) Schedule 7 to FA 2003 (stamp duty land tax: group relief etc) is amended as follows.
- (2) In paragraph 2 (restrictions on availability of group relief) in sub-paragraph (1) (no relief if arrangements by virtue of which a person has or could have control of purchaser but not vendor) at the end insert— “ For another exception to this, see sub-paragraph (3A). ”.
- (3) In that paragraph after sub-paragraph (3) (arrangements which are within sub-paragraph (2)(a)) insert—
- “(3A) Sub-paragraphs (1) and (2)(b) do not apply to arrangements in so far as they are for the purpose of facilitating a transfer of the whole or part of the business of a company to another company in relation to which—
- (a) section 96 of the Finance Act 1997 is intended to apply (stamp duty relief: demutualisation of insurance companies), and
  - (b) the conditions for relief under that section are intended to be met.”.
- (4) In paragraph 4 (cases in which group relief not withdrawn under paragraph 3)—
- (a) after sub-paragraph (6) (the third case where the relief not withdrawn) insert—
- “(6A) The fourth case is where—
- (a) the purchaser ceases to be a member of the same group as the vendor as a result of the transfer of the whole or part of the vendor's business to another company (“the acquiring company”) in relation to which—
    - (i) section 96 of the Finance Act 1997 applies (stamp duty relief: demutualisation of insurance companies), and
    - (ii) the conditions for relief under that section are met, and
  - (b) the purchaser is immediately after that transfer a member of the same group as the acquiring company.”, and
- (b) in sub-paragraph (7) (re-imposition of the withdrawal of the relief), in the opening words, after “in a case within sub-paragraph (6)” insert “ or (6A) ”.
- (5) The amendments made by this section have effect in relation to any transfer which takes place, or is intended to take place, after 22nd March 2006.

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## 168 Alternative finance

- (1) In sections 71A to 73 of FA 2003 (alternative property finance) for “individual” substitute “ person ” (and for “an individual” substitute “ a person ”).
- (2) Sections 71A(6), 72(6), 72A(6) and 73(4) shall cease to have effect.
- (3) In section 73(3) after “chargeable” insert “ on a chargeable consideration that is not less than the market value of the interest and, in the case of the grant of a lease at a rent, the rent. ”
- (4) After section 73 insert—

### “73A Sections 71A to 73: supplemental

Sections 71A to 73 do not apply to arrangements in which the first transaction is exempt from charge by virtue of Schedule 7.”

- (5) This section shall have effect in relation to arrangements in which the effective date of the first transaction (within the meaning of sections 71A to 73 of FA 2003) is on or after the date on which this Act is passed; and section 119(1) of FA 2003 shall have effect for determining the effective date for the purposes of this subsection.

### *Stamp duty*

## 169 Reliefs for certain company acquisitions

- (1) Part 3 of FA 1986 (stamp duty) is amended as follows.
- (2) In section 75 (relief for acquisition of target company's undertaking in pursuance of reconstruction scheme)—
  - (a) in subsection (4) (condition as to registered office etc) omit “that the registered office of the acquiring company is in the United Kingdom and”, and
  - (b) in subsection (5)(c) (condition that any shareholder holds the same proportion of shares in the companies) after “the same” insert “ , or as nearly as may be the same, ”.
- (3) In section 76 (other relief for acquisition of target company's undertaking), in subsection (3) (condition as to registered office etc) omit “that the registered office of the acquiring company is in the United Kingdom and”.
- (4) In section 77 (relief for acquisition of target company's share capital), in subsection (3) (conditions for relief),—
  - (a) omit paragraph (a) (condition as to registered office),
  - (b) in paragraph (g) (condition that the number of shares of any particular class bear to all the shares the same proportion) after “the same proportion” insert “ , or as nearly as may be the same proportion, ”, and
  - (c) in paragraph (h) (condition that proportion of shares of any particular class held by any shareholder be the same) after “the same” insert “ , or as nearly as may be the same, ”.
- (5) The amendments made by this section have effect in relation to instruments executed after the day on which this Act is passed.

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## PART 9

### MISCELLANEOUS PROVISIONS

#### *Landfill tax*

#### **170 Rate of landfill tax**

- (1) In section 42 of FA 1996 (amount of landfill tax) for the amount specified in subsection (1)(a), and the corresponding amount specified in subsection (2), substitute “£21”.
- (2) The amendments made by this section have effect in relation to taxable disposals made, or treated as made, on or after 1st April 2006.

#### *Climate change levy*

#### **171 Climate change levy: rates**

- (1) In Schedule 6 to FA 2000 (climate change levy) for the Table in paragraph 42(1) (amount payable by way of levy) substitute—

“TABLE

| <i>Taxable commodity supplied</i>  | <i>Rate at which levy payable if supply is neither a half-rate supply nor a reduced-rate supply</i> |
|--|---|
| Electricity  | £0.00441 per kilowatt hour  |
| Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility | £0.00154 per kilowatt hour  |
| Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state                                      | £0.00985 per kilogram   |
| Any other taxable commodity  | £0.01201 per kilogram”  |

- (2) This section has effect in relation to supplies treated as taking place on or after 1st April 2007.

#### **172 Abolition of half-rate supplies etc**

- (1) For the purposes of climate change levy, no supply made on or after 1st April 2006 is a half-rate supply.
- (2) Subsections (3) to (6) have effect for determining when a supply is to be regarded as made for the purposes of subsection (1).
- (3) A supply—
  - (a) of electricity, or
  - (b) of gas that is in a gaseous state and is of a kind supplied by a gas utility,is to be regarded as made at the time when the electricity or gas is actually supplied.

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- (4) In the case of a supply of a taxable commodity not falling within subsection (3) by a person who is resident in the United Kingdom—
- (a) if the commodity is to be removed, the supply is to be regarded as made at the time of the removal,
  - (b) if the commodity is not to be removed, the supply is to be regarded as made when the commodity is made available to the person to whom it is supplied.
- This subsection does not apply if subsection (6) (deemed self-supply) applies in the case of the supply.
- (5) In the case of a supply of a taxable commodity not falling within subsection (3) by a person who is not resident in the United Kingdom, the supply is to be regarded as made—
- (a) when the commodity is delivered to the person to whom it is supplied, or
  - (b) if earlier, when it is made available in the United Kingdom to that person.
- This subsection does not apply if subsection (6) (deemed self-supply) applies in the case of the supply.
- (6) In any case where, by virtue of paragraph 23(3) of Schedule 6 to FA 2000, a person is, for the purposes of that Schedule, deemed to make a supply to himself of a quantity of a taxable commodity—
- (a) which he has produced, and
  - (b) which does not fall within subsection (3),
- the supply is to be regarded as made at the time when he produced that particular quantity of the taxable commodity.
- (7) In paragraph 34 of Schedule 6 to FA 2000 (deemed supplies of commodities other than electricity and certain gas), in sub-paragraph (2) omit the words “(or, in the case of electricity, consumed)” (which are unnecessary, because the paragraph does not apply in the case of electricity).
- (8) In consequence of subsection (1), Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- (9) In paragraph 37 (supplies of electricity or gas spanning change of rate etc) in sub-paragraph (1)(c) omit “half-rate supplies or”.
- (10) In paragraph 38 (other supplies spanning change of rate etc) in sub-paragraph (1)(c) omit “half-rate supplies or”.
- (11) In paragraph 42(1) (amount payable by way of levy)—
- (a) in paragraph (a), for “neither a half-rate supply nor” substitute “ not ”;
  - (b) omit paragraph (b);
  - (c) in paragraph (c), for “neither a half-rate supply nor” substitute “ not ”;
  - (d) in the Table (and in the Table substituted for it by section 171 of this Act), in the heading to column (2), for “neither a half-rate supply nor” substitute “ not ”.
- (12) Paragraph 43 (half-rate for supplies to horticultural producers) shall cease to have effect.
- (13) In paragraph 62 (tax credits) in subsection (1)—
- (a) in paragraph (c)—

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- (i) for “neither a half-rate supply nor” substitute “ not ”;
  - (ii) omit “half-rate or”;
- (b) omit paragraph (d).
- (14) In paragraph 101 (civil penalties: incorrect notifications) in sub-paragraph (2)(a)—
  - (a) at the end of sub-paragraph (ii) insert “ or ”;
  - (b) omit sub-paragraph (iii).
- (15) In paragraph 147 (interpretation: general) omit the definition of “half-rate supply”.
- (16) Subsections (8) to (15) come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (17) The power to make an order under subsection (16)—
  - (a) may be exercised so as to bring a provision into force only in such cases as may be described in the order,
  - (b) may be exercised so as to make different provision for different cases or descriptions of case,
  - (c) includes power to make incidental, consequential, supplemental or transitional provision or savings.

#### **Subordinate Legislation Made**

**P5** [S. 172\(8\)-\(15\)](#) power fully exercised: 1.11.2007 appointed by [{S.I. 2007/2901}](#), art. 2

#### **Commencement Information**

**I2** [S. 172](#) wholly in force; [s. 172\(1\)-\(7\)\(16\)\(17\)](#) in force at Royal Assent see [s. 172\(16\)](#); [s. 172\(8\)-\(15\)](#) in force at 1.11.2007 by [S.I. 2007/2901](#), [art. 2](#)

### *International tax arrangements*

#### **173 International tax enforcement arrangements**

- (1) If Her Majesty by Order in Council declares that—
  - (a) arrangements relating to international tax enforcement which are specified in the Order have been made in relation to any territory or territories outside the United Kingdom, and
  - (b) it is expedient that those arrangements have effect,those arrangements have effect (and do so in spite of anything in any enactment or instrument).
- (2) For the purposes of subsection (1) arrangements relate to international tax enforcement if they relate to any or all of the following—
  - (a) the exchange of information foreseeably relevant to the administration, enforcement or recovery of any UK tax or foreign tax;
  - (b) the recovery of debts relating to any UK tax or foreign tax;
  - (c) the service of documents relating to any UK tax or foreign tax.
- (3) In this section—
  - “UK tax” means any tax or duty imposed under the domestic law of the United Kingdom, and

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“foreign tax” means any tax or duty imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made.

- [<sup>F65</sup>(4) Where any arrangements have effect by virtue of this section, no obligation of secrecy (whether imposed by statute or otherwise) prevents a public authority or anyone acting on its behalf from making a disclosure to the Commissioners for Her Majesty’s Revenue and Customs —
- (a) for the purpose of giving effect, or enabling effect to be given, to the arrangements, or
  - (b) which is authorised in accordance with the arrangements.
- (4A) Where any arrangements have effect by virtue of this section, no obligation of secrecy (whether imposed by statute or otherwise) prevents the Commissioners for Her Majesty’s Revenue and Customs or any other authorised Revenue and Customs official from making a disclosure to a person outside the United Kingdom—
- (a) for the purpose of giving effect, or enabling effect to be given, to the arrangements, or
  - (b) which is authorised in accordance with the arrangements.
- (5) But information may not be disclosed by virtue of subsection (4A) unless the person making the disclosure is satisfied that the recipient of the information—
- (a) will only use the information in a manner consistent with the purposes of the arrangements, and
  - (b) is bound by, or has undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the United Kingdom.]

(6) An Order in Council made under this section revoking an earlier such Order may contain any transitional provisions that appear appropriate.

(7) An Order under this section is not to be submitted to Her Majesty in Council unless a draft of the Order has been laid before and approved by a resolution of the House of Commons.

(8) Any provisions which—

    - (a) are included in an Order in Council made under any of the provisions specified in subsection (10),
    - (b) are in force immediately before the passing of this Act, and
    - (c) could have been included in an Order in Council under this section had the Order in Council been made after that time,

have effect after that time as if included in an Order in Council under this section.

(9) If any such provisions relate to arrangements covering UK taxes or foreign taxes (or both) other than those in relation to which the Order in Council had effect, the provisions also have effect after the passing of this Act (by virtue of subsection (8)) in relation to those other UK taxes or foreign taxes (or both).

(10) The provisions referred to in subsection (8)(a) are—

    - (a) sections 788 and 815C of ICTA (international arrangements relating to income tax, corporation tax and capital gains tax and analogous foreign taxes), and
    - (b) sections 158 and 220A of IHTA 1984 (international arrangements relating to inheritance tax and analogous foreign taxes).



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- (11) In this section “Revenue and Customs official” has the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality).

**Textual Amendments**

**F65** S. 173(4)-(5) substituted (31.12.2020) for s. 173(4)(5) by [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\)](#), regs. 1, **14(2)** (with regs. 39-41); 2020 c. 1, Sch. 5 para. 1(1)

<sup>F66</sup>**174 Arrangements under section 173: information powers**

**Textual Amendments**

**F66** S. 174 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), **Sch. 36 para. 91** (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 10)

**175 Arrangements under section 173: recovery of debts**

- (1) The Treasury may by regulations make provision for the recovery in the United Kingdom of debts relating to any relevant foreign tax pursuant to arrangements having effect by virtue of section 173.
- (2) “Relevant foreign tax” means any tax or duty—
  - (a) imposed under the law of a territory in relation to which such arrangements have been made, and
  - (b) covered by the arrangements.
- (3) Regulations under this section may make provision for the taking of action to recover debts relating to any relevant foreign tax by way of legal proceedings, distress, diligence or otherwise.
- (4) Such provision may in particular be made by applying, with any appropriate modifications, any enactment or rule of law that applies in relation to the recovery of any tax or duty imposed under the domestic law of the United Kingdom (including any enactment relating to penalties or interest on unpaid amounts).
- (5) The power to make regulations under this section is exercisable by statutory instrument.
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

<sup>F67</sup>**176 Double taxation agreements: procedure**

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### Textual Amendments

- F67** S. 176 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 10 Pt. 1](#) (with [Sch. 9 paras. 1-9, 22](#))

### *Disclosure of information*

#### **177 Disclosure of information**

- (1) After section 352 of the Gambling Act 2005 (c. 19) (disclosure of information: data protection) insert—

#### **“352A Wrongful disclosure**

- (1) Where the Commissioners for Her Majesty's Revenue and Customs provide information to a person under this Act, section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) shall apply to the disclosure of the information by the person as it applies to the disclosure of information in contravention of a provision of that Act.
  - (2) But section 19 shall not apply to disclosure—
    - (a) in accordance with this Act,
    - (b) in accordance with another enactment, or
    - (c) in circumstances specified in section 18(2)(c), (d), (e) or (h) of that Act.
  - (3) In subsection (1)—
    - (a) information provided to a person shall be treated as being provided both to him and to any person on whose behalf he acts or by whom he is employed, and
    - (b) the reference to disclosure by the person to whom information was provided includes a reference to disclosure by any person acting on behalf of, or employed by, the person to whom the information was provided (or a person to whom it is treated as being provided by virtue of paragraph (a)).
  - (4) In the application of section 18(2)(c) and (d) of that Act by virtue of subsection (2)(c) above a reference to functions of the Revenue and Customs shall be taken as a reference to functions of the person making the disclosure.
  - (5) In the application of section 19 of that Act by virtue of subsection (1) above “revenue and customs information” means information provided by the Commissioners (but subject to the express exclusion in section 19(2)).
  - (6) Section 19 of that Act shall, in so far as it applies by virtue of this section, be treated for the purposes of section 28 of this Act as an offence under this Act.”
- (2) Section 352A of the Gambling Act 2005 (c. 19) as inserted by subsection (1) above shall come into force on the passing of this Act.

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## PART 10

### SUPPLEMENTARY PROVISIONS

#### 178 Repeals

- (1) The enactments mentioned in Schedule 26 (which include provisions that are spent or of no practical utility) are repealed to the extent specified.
- (2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

#### 179 Interpretation

In this Act—

- “ALDA 1979” means the Alcoholic Liquor Duties Act 1979 (c. 4);
- “CAA 2001” means the Capital Allowances Act 2001 (c. 2);
- [<sup>F68</sup>“CTA 2009” means the Corporation Tax Act 2009;]
- “FA”, followed by a year, means the Finance Act of that year;
- “F(No.2)A”, followed by a year, means the Finance (No.2) Act of that year;
- “HODA 1979” means the Hydrocarbon Oil Duties Act 1979 (c. 5);
- “ICTA” means the Income and Corporation Taxes Act 1988 (c. 1);
- “IHTA 1984” means the Inheritance Tax Act 1984 (c. 51);
- [<sup>F69</sup>“ITA 2007” means the Income Tax Act 2007; ]
- “ITEPA 2003” means the Income Tax (Earnings and Pensions) Act 2003 (c. 1);
- “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005 (c. 5);
- “OTA 1975” means the Oil Taxation Act 1975 (c. 22);
- “TCGA 1992” means the Taxation of Chargeable Gains Act 1992 (c. 12);
- “TMA 1970” means the Taxes Management Act 1970 (c. 9);
- “VATA 1994” means the Value Added Tax Act 1994 (c. 23);
- “VERA 1994” means the Vehicle Excise and Registration Act 1994 (c. 22).

#### Textual Amendments

- F68** Words in s. 179 inserted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 692](#) (with [Sch. 2 Pts. 1, 2](#))
- F69** S. 179: definition of "ITA 2007" inserted (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), s. 1027, [Sch. 1 para. 622](#) (with transitional provisions and savings in [Sch. 2](#))

#### 180 Short title

This Act may be cited as the Finance Act 2006.

**Status:**

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