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SCHEDULES

SCHEDULE 2

Section 1034

TRANSITIONALS AND SAVINGS

PART 1

GENERAL PROVISIONS

Continuity of the law: general

- 1 The repeal of provisions and their enactment in a rewritten form by this Act does not affect the continuity of the law.
- 2 Paragraph does not apply to any change made by this Act in the effect of the law.
- 3 Any subordinate legislation or other thing which—
- (a) has been made or done, or has effect as if made or done, under or for the purposes of a superseded enactment so far as it applied for relevant tax purposes, and
 - (b) is in force or effective immediately before the commencement of the corresponding rewritten provision,
- has effect after that commencement as if made or done under or for the purposes of the rewritten provision.
- 4 (1) Any reference (express or implied) in this Act, another enactment or an instrument or document to a rewritten provision is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to the superseded enactment so far as applying for those relevant tax purposes.
- (2) Any reference (express or implied) in this Act, another enactment or an instrument or document to—
- (a) things done under or for the purposes of a rewritten provision, or
 - (b) things falling to be done under or for the purposes of a rewritten provision,
- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to things done or falling to be done under or for the purposes of the superseded enactment so far as applying for those relevant tax purposes.
- 5 (1) Any reference (express or implied) in any enactment, instrument or document to a superseded enactment in its application for relevant tax purposes is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to the rewritten provision.
- (2) Any reference (express or implied) in any enactment, instrument or document to—

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- (a) things done under or for the purposes of a superseded enactment in its application for relevant tax purposes, or
- (b) things falling to be done under or for the purposes of a superseded enactment in its application for relevant tax purposes,

is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to things done or falling to be done under or for the purposes of the rewritten provision.

- 6 (1) Paragraphs 1 to 5 have effect instead of section 17(2) of the Interpretation Act 1978 (c. 30) (but are without prejudice to any other provision of that Act).
- (2) Paragraphs 4 and 5 apply only so far as the context permits.

General saving for old transitional provisions and savings

- 7 (1) The repeal by this Act of a transitional or saving provision relating to the coming into force of a provision rewritten in this Act does not affect the operation of the transitional or saving provision, so far as it is not specifically rewritten in this Act but remains capable of having effect in relation to the corresponding provision of this Act.
- (2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.
- (3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving so far as it is not specifically rewritten in this Act but remains capable of having effect.

Partnerships involving companies

- 8 (1) References in this Act to any person are to be read, in the case of a person acting in partnership with other persons of whom at least one is a company chargeable to corporation tax, as references to all the partners so far as is required for the purposes of preserving the continuity of the law.
- (2) References to a company or other person in any provision amended in its application for corporation tax purposes by this Act are to be read, in the case of a company acting in partnership with other persons of whom at least one is not a company, as references to all the partners so far as is required for the purposes of preserving the continuity of the law.

Interpretation

- 9 (1) In this Part—
 - “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)),
 - “relevant tax purposes” means, in relation to a superseded enactment, tax purposes for which the enactment has been rewritten by this Act, and
 - “superseded enactment” means an earlier enactment which has been rewritten by this Act for certain tax purposes (whether it applied only for those purposes or for those and other tax purposes).

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- (2) References in this Part to the repeal of a provision include references to its revocation and to its express or implied disapplication for income tax purposes of this Act.
- (3) References in this Part to tax purposes are not limited to income tax purposes.

PART 2

CHANGES IN THE LAW

- 10 (1) This paragraph applies if, in the case of any person—
 - (a) a thing is done or an event occurs before 6 April 2007, and
 - (b) because of a change in the law made by this Act, the tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.
- (2) If that person so elects, this Act applies with such modifications as may be necessary to secure that the tax consequences for the relevant period are the same as they would have been if the change in the law had not been made.
- (3) In sub-paragraphs (1) and (2) “the relevant period” means—
 - (a) for income tax purposes, any period of account beginning before and ending on or after 6 April 2007, and
 - (b) for corporation tax purposes, any accounting period beginning before and ending on or after 6 April 2007.
- (4) If this paragraph applies in the case of two or more persons in relation to the same thing or event, an election made under this paragraph by any one of those persons is of no effect unless a corresponding election is made by the other or each of the others.
- (5) An election under this paragraph must be made—
 - (a) for income tax purposes, on or before the first anniversary of the normal self-assessment filing date for the tax year in which the period of account ends, and
 - (b) for corporation tax purposes, not later than two years after the end of the accounting period.

PART 3

RATES AT WHICH INCOME TAX IS CHARGED

- 11 In relation to a tax year before 2007-08—
 - (a) references in this Act, another enactment or an instrument or document to the savings rate are to be read as references to the lower rate, and
 - (b) references in this Act, another enactment or an instrument or document to the trust rate are to be read as references to the rate applicable to trusts.
- 12 In relation to the tax year 2007-08 or any subsequent tax year—
 - (a) references in an enactment, instrument or document to the lower rate are to be read as references to the savings rate, and
 - (b) references in an enactment, instrument or document to the rate applicable to trusts are to be read as references to the trust rate.

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- 13 In this Part “enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

PART 4

PERSONAL RELIEFS

- 14 Paragraphs 15 to 17 do not apply after 5 April 2009.
- 15 (1) Sub-paragraphs (2) and (3) apply in relation to an individual who, immediately before 6 April 2007, is entitled to a blind person's allowance under section 265 of ICTA.
- (2) Section 39 has effect with the insertion in subsection (1) after “section 38” of “of this Act or section 265 of ICTA”.
- (3) Section 265 of ICTA (as amended by Schedule 1) has effect—
- (a) with the insertion in subsection (2)(a) after “subsection (1) above” of “or section 38 of ITA 2007”,
 - (b) with the insertion in subsection (5) after “subsection (1)” of “or section 38 of ITA 2007”.
- 16 (1) Sub-paragraphs (2) to (5) apply in relation to an individual if, immediately before 6 April 2007, the individual's spouse or civil partner is entitled to a tax reduction under section 257A or 257AB of ICTA.
- (2) Sections 47 and 48 have effect—
- (a) with the insertion in subsections (1)(a) and (3) after “section 45 or 46” of “of this Act or section 257A or 257AB of ICTA”,
 - (b) with the insertion in subsection (4) after paragraph (b) of “, or
 - (c) if the individual's spouse or civil partner is entitled to a tax reduction under section 257A or 257AB of ICTA, the amount by reference to which the calculation of the tax reduction is to be made.”
- (3) Section 51 has effect—
- (a) with the insertion in subsections (1)(a) and (2)(a) after “section 45 or 46” of “of this Act or section 257A or 257AB of ICTA”,
 - (b) with the insertion in subsection (2)(b) after “section 49” of “of this Act or section 257BA(3) of ICTA”.
- (4) Section 257BA of ICTA (as amended by Schedule 1) has effect with the insertion in subsection (1) after “section 257A or 257AB” of “of this Act or section 45 or 46 of ITA 2007”.
- (5) Section 257BB of ICTA (as amended by Schedule 1) has effect with the insertion in subsection (3) after “ “section 257A or 257AB” of “of this Act or section 45 or 46 of ITA 2007”.
- 17 (1) Sub-paragraphs (2) to (5) apply in relation to an individual who, immediately before 6 April 2007, is entitled to a tax reduction under section 257A or 257AB of ICTA.
- (2) Section 49 has effect with the insertion in subsection (1) after “section 45 or 46” of “of this Act or section 257A or 257AB of ICTA”.

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- (3) Section 52 has effect with the insertion in subsection (4) after “section 45, 46 or 49” of “of this Act or section 257A, 257AB or 257BA(3) of ICTA”.
- (4) Section 53 has effect with the insertion in subsection (3) after “this Chapter” of “or section 257A, 257AB, 257BA or 257BB of ICTA”.
- (5) Section 257BA of ICTA (as amended by Schedule 1) has effect—
- (a) with the insertion in subsections (2) and (3)(a) after “section 257A or 257AB” of “of this Act or section 45 or 46 of ITA 2007”,
 - (b) with the substitution for subsection (3A) of—
“(3A) In this section “the appropriate amount” means—
- (a) if the individual, or the individual's spouse or civil partner, is entitled to a tax reduction under section 257A or 257AB, the amount by reference to which the calculation of the tax reduction is to be made,
 - (b) if the individual, or the individual's spouse, is entitled to a tax reduction under section 45 of ITA 2007, the amount specified in section 45(3)(a) or (b) of that Act (as applicable), after any reductions under section 45(4) and 54(2) of that Act, or
 - (c) if the individual, or the individual's spouse or civil partner, is entitled to a tax reduction under section 46 of ITA 2007, the amount specified in section 46(3)(a) or (b) of that Act (as applicable), after any reductions under section 46(4) and 54(2) of that Act.”
- (6) Section 257BB of ICTA (as amended by Schedule 1) has effect—
- (a) with the insertion in subsections (1)(a) and (1A)(a) after “section 257A or 257AB” of “of this Act or section 45 or 46 of ITA 2007”,
 - (b) with the insertion in subsection (1A)(b) after “section 257BA(3)” of “of this Act or section 49 of ITA 2007”,
 - (c) with the insertion in subsection (5C) after “this section” of “, or Chapter 3 of Part 3 of ITA 2007,”.

PART 5

LOSSES (EXCEPT LOSSES ON DISPOSAL OF SHARES)

General: carry forward loss reliefs

- 18 (1) The repeal by this Act of the superseded carry forward provisions does not alter the effect of those provisions so far as they determine—
- (a) whether, and
 - (b) to what extent,
- relief for any loss made (or treated as made) in a tax year before the tax year 2007-08 is to be given for the tax year 2007-08 or any subsequent tax year.
- (2) But any relief for the loss (or any part of the loss) which is given for the tax year 2007-08 or any subsequent tax year is to be given in accordance with the relevant provisions of Part 4 of this Act.

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- (3) In this paragraph “the superseded carry forward provisions” means—
- (a) sections 379A and 379B of ICTA (carry forward of loss in Schedule A business or overseas property business),
 - (b) sections 385, 387, 390 and 391 (so far as applying to section 385) of ICTA (carry forward of loss in trade, profession or vocation),
 - (c) section 392(2)(b) and (5) of ICTA (carry forward of miscellaneous loss), and
 - (d) any provision inserting or amending, or affecting the application of, any of the above provisions.

Trade loss relief against general income

- 19 (1) This paragraph applies for the purposes of section 64 if the loss is made in the tax year 2007-08.
- (2) Relief for the loss can be given for the tax year 2006-07.
- (3) Sub-paragraphs (4) and (5) apply if relief for the loss is claimed for the tax year 2006-07.
- (4) If relief is to be given, the relief is given in the way it would have been given had it been given under section 380(1)(b) of ICTA ignoring this Act (and section 65 of this Act is to be read accordingly).
- (5) Section 72 of FA 1991 applies as if the relief had been claimed under section 380(1)(b) of ICTA.
- 20 (1) This paragraph applies if—
- (a) a person makes a loss (“the 2006-07 loss”) in a trade in the tax year 2006-07,
 - (b) relief under section 380 of ICTA is not available for the 2006-07 loss because of section 384(1) of that Act,
 - (c) the person makes a loss (“the 2007-08 loss”) in the trade in the tax year 2007-08,
 - (d) (apart from this paragraph) relief under section 64 of this Act is not available for the 2007-08 loss because of section 66 of this Act,
 - (e) the basis period for the tax year 2007-08 overlaps with the tax year 2006-07, and
 - (f) ignoring this Act, section 384(1) of ICTA would not have prevented relief under section 380 of that Act being available for the 2007-08 loss.
- (2) Section 66 of this Act is not to apply in relation to the 2007-08 loss.
- (3) This paragraph applies to professions and vocations as it applies to trades.

Early trade losses relief

- 21 (1) This paragraph applies for the purposes of section 72 if the loss is made in the tax year 2007-08, 2008-09 or 2009-10.
- (2) Relief for the loss can be given for one or more of the tax years 2004-05, 2005-06 and 2006-07 (depending on the tax year in which the loss is made).
- (3) If relief for the loss is to be given for one or more of those tax years, the relief is given in the way in which it would have been given had it been given under section 381 of ICTA ignoring this Act (and section 73 of this Act is to be read accordingly).

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- 22 (1) This paragraph applies if—
- (a) a person makes a loss (“the 2006-07 loss”) in a trade in the tax year 2006-07,
 - (b) relief under section 381 of ICTA is not available for the 2006-07 loss because of subsection (4) of that section,
 - (c) the person makes a loss (“the 2007-08 loss”) in the trade in the tax year 2007-08,
 - (d) (apart from this paragraph) relief under section 72 of this Act is not available for the 2007-08 loss because of section 74(1) of this Act,
 - (e) the basis period for the tax year 2007-08 overlaps with the tax year 2006-07, and
 - (f) ignoring this Act, subsection (4) of section 381 of ICTA would not have prevented relief under that section being available for the 2007-08 loss.
- (2) Section 74(1) of this Act is not to apply in relation to the 2007-08 loss.
- (3) This paragraph applies to professions and vocations as it applies to trades.

Sideways relief: trade leasing allowances given to individuals

- 23 (1) This paragraph applies if—
- (a) a person makes a loss (“the 2006-07 loss”) in a trade in the tax year 2006-07,
 - (b) relief under section 380 or 381 of ICTA is not available for the 2006-07 loss (or for part of it) because of section 384(6) of that Act,
 - (c) the person makes a loss (“the 2007-08 loss”) in the trade in the tax year 2007-08,
 - (d) (apart from this paragraph) relief under section 64 or 72 of this Act is not available for the 2007-08 loss (or for part of it) because of section 75 of this Act,
 - (e) the basis period for the tax year 2007-08 overlaps with the tax year 2006-07, and
 - (f) ignoring this Act, section 384(6) of ICTA would not have prevented relief under section 380 or 381 of that Act being available for the 2007-08 loss (or for the part).
- (2) Section 75 of this Act is not to apply in relation to the 2007-08 loss (or to the part).

Sideways relief: dealings in commodity futures

- 24 Section 81 does not apply if the arrangements mentioned in that section were made wholly before 6 April 1976.

Terminal trade loss relief

- 25 (1) This paragraph applies for the purposes of section 89 if the final tax year is the tax year 2007-08, 2008-09 or 2009-10.
- (2) Relief for the terminal losses in question can be given for one or more of the tax years 2004-05, 2005-06 and 2006-07 (depending on which tax year is the final tax year).
- (3) If relief for the terminal losses is to be given for one or more of those tax years, the relief is given in the way in which it would have been given had it been given

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under section 388 of ICTA ignoring this Act (and section 91 of this Act is to be read accordingly).

Post-cessation trade loss relief and post-cessation property relief

- 26 The events covered by section 98(5) (including as applied by section 125(6)(b)) include events—
- (a) which occur before the tax year 2007-08, and
 - (b) in relation to which no claim is made under section 109A of ICTA.

Reliefs for limited partners not to exceed contribution to the firm

- 27 (1) The relief covered by section 104(5) includes—
- (a) relief given for a loss as a result of section 380 or 381 of ICTA,
 - (b) any amount that, ignoring this Act, would have been included in the individual's aggregate amount in relation to the trade for the purposes of section 117 of ICTA as a result of paragraph 22(3) of Schedule 2 to CAA 2001, and
 - (c) the treatment of a loss as an allowable loss by virtue of section 72 of FA 1991.
- (2) The income covered by section 104(6) includes amounts treated as received as a result of the application of section 74 of FA 2005.

Reliefs for members of LLPs not to exceed contribution to the LLP

- 28 (1) The relief covered by section 107(6) includes—
- (a) relief given for a loss as a result of section 380 or 381 of ICTA, and
 - (b) the treatment of a loss as an allowable loss by virtue of section 72 of FA 1991.
- (2) The income covered by section 107(7) includes amounts treated as received as a result of the application of section 74 of FA 2005.

Members of LLPs: carry-forward of losses

- 29 (1) The amounts of loss covered by section 109(1)(b) include amounts of loss which, as a result of section 117 of ICTA (as applied by section 118ZB of that Act), are not—
- (a) relieved under section 380 or 381 of ICTA, or
 - (b) treated as an allowable loss by virtue of section 72 of FA 1991.
- (2) In section 109(3)—
- (a) references to section 109 include references to section 118ZD of ICTA,
 - (b) references to sideways relief include references to relief under section 380 or 381 of ICTA, and
 - (c) references to capital gains relief include references to the treatment of a loss as an allowable loss by virtue of section 72 of FA 1991.

Reliefs for non-active partners not to exceed contribution to the firm

- 30 (1) The relief covered by section 110(5) includes—
- (a) relief given for a loss as a result of section 380 or 381 of ICTA, and
 - (b) the treatment of a loss as an allowable loss by virtue of section 72 of FA 1991.

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- (2) Sub-paragraph (1) is subject to paragraph 33.
- (3) The income covered by section 110(6) includes amounts treated as received as a result of the application of section 74 of FA 2005.

Non-active partners: carry-forward of losses

- 31 (1) The amounts of loss covered by section 113(1)(b) include amounts of loss which, as a result of section 118ZE of ICTA, are not—
 - (a) relieved under section 380 or 381 of ICTA, or
 - (b) treated as an allowable loss by virtue of section 72 of FA 1991.
- (2) In section 113(4)—
 - (a) references to section 113 include references to section 118ZI of ICTA,
 - (b) references to sideways relief include references to relief under section 380 or 381 of ICTA, and
 - (c) references to capital gains relief include references to the treatment of a loss as an allowable loss by virtue of section 72 of FA 1991.
- (3) In section 113(8) the reference to section 109 includes a reference to section 118ZD of ICTA.

Restriction on reliefs for non-active partners: pre-10 February 2004 events

- 32 In Chapter 3 of Part 4 any reference to an early tax year in relation to an individual carrying on a trade does not include a tax year the basis period for which ends before 10 February 2004.
- 33 (1) Sub-paragraphs (2) to (9) set out relief which is not covered by section 110(5) (relevant relief).
- (2) Relief is not covered if it is given for a loss made in a trade in a tax year the basis period for which ends before 10 February 2004.
- (3) Sub-paragraphs (4) to (9) apply if the individual carried on a trade in a tax year the basis period for which includes 10 February 2004.
- (4) Relief given for a loss made in the trade is not covered so far as the loss derives from an allowance or deduction within sub-paragraph (5).
- (5) An allowance or deduction is within this sub-paragraph if it is—
 - (a) a capital allowance in respect of expenditure incurred before 10 February 2004 which is treated as an expense of the trade, or
 - (b) a deduction in respect of expenditure incurred before 10 February 2004 under section 42(1) of F(No.2)A 1992 or any of sections 138 to 140 of ITTOIA 2005.
- (6) For the purposes of sub-paragraph (4) the amount of a loss that derives from an allowance or deduction within sub-paragraph (5) is determined on a just and reasonable basis.
- (7) Relief given for a loss made in the trade is not covered so far as it is given for the pre-announcement allowance in relation to the trade.

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- (8) “Pre-announcement allowance” is to be read in accordance with section 118ZJ(4) and (6) to (8) of ICTA.
- (9) For that purpose, references to the first restricted year are to be read as references to the tax year mentioned in sub-paragraph (3).
- If sub-paragraph (3) covers more than one tax year, the first restricted year is the first of the tax years covered.
- (10) Sub-paragraph (11) applies for the purpose of applying the restriction in section 110(4) (relevant relief not to exceed contribution to the firm) in relation to an individual if before 10 February 2004 the individual contributed an amount of capital to the firm.
- (11) That amount of capital is reduced (but not below nil)—
- (a) by the amount of relief (if any) to be left out of account for the purposes of section 110(5) as a result of paragraph 32 or this paragraph (ignoring sub-paragraph (4)), and
 - (b) by any pre-announcement allowance so far as—
 - (i) relief has not been given for the allowance, and
 - (ii) had relief been given for the allowance, the relief would have to be left out of account for the purposes of section 110(5)(b) as mentioned in paragraph (a).

Regulations under section 114

- 34 (1) The provision which may be made in regulations under section 114 does not include provision affecting the amount of relief that may be given for a loss made in a trade that is not a post-1 December 2004 loss (as determined in accordance with section 795).
- (2) The repeal by this Act of sections 118ZN and 118ZO of ICTA (or any provision inserting or amending, or affecting the application of, those sections) does not affect the power of the Commissioners for Her Majesty's Revenue and Customs to make regulations under section 118ZN having effect before the tax year 2007-08.

Application of existing regulations under sections 114 and 802

- 35 (1) After the commencement of sections 114 and 802, the Partnerships (Restrictions on Contributions to a Trade) Regulations 2005 (S.I. 2005/2017) have effect as if made under those sections.
- (2) The Regulations so have effect subject to the following modifications.
- (3) They have effect as if in regulation 2—
- (a) in the definition of “bank” for “section 840A of ICTA” there were substituted “ section 991 of ITA 2007 ”,
 - (b) for the definition of “contribution to the relevant trade” there were substituted—

““capital contribution”—

 - (a) for the purposes of section 114 of ITA 2007, means the contribution to the firm for the purposes of section 104

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- or 110 of that Act or the contribution to the LLP for the purposes of section 107 of that Act, and
- (b) for the purposes of section 802 of ITA 2007, has the meaning given by section 801(3) of that Act;”, and
- (c) for the definition of “ICTA” there were substituted—

““ITA 2007” means the Income Tax Act 2007;”.

- (4) They have effect as if in regulations 3 to 6 for “contribution to the relevant trade”, wherever occurring, there were substituted “ capital contribution ”.
- (5) They have effect as if—
- (a) in regulation 3(a) for “section 118ZN of ICTA” there were substituted “ section 114(1)(a) and (b) of ITA 2007 ”, and
- (b) in regulation 3(b) for the words from “section 119” to the end there were substituted “ section 797 of ITA 2007 as mentioned in section 802(2) of that Act ”.
- (6) They have effect as if in regulation 6(c) for “the trade” there were substituted “ a trade ”.

Losses in an employment or office

- 36 (1) This paragraph applies for the purposes of section 128 if the loss is made in the tax year 2007-08.
- (2) Relief for the loss can be given for the tax year 2006-07.
- (3) Sub-paragraphs (4) and (5) apply if relief for the loss is claimed for the tax year 2006-07.
- (4) If relief is to be given, the relief is given in the way it would have been given had it been given under section 380(1)(b) of ICTA ignoring this Act (and section 129 of this Act is to be read accordingly).
- (5) Section 72 of FA 1991 applies as if the relief had been claimed under section 380(1)(b) of ICTA.

Loss relief against miscellaneous income: Case VI losses

- 37 (1) This paragraph applies if a person makes a loss in any transaction—
- (a) which was of such a nature that, if any profits had arisen from it, the person would have been liable to income tax under Case VI of Schedule D for any tax year before the tax year 2005-06, and
- (b) which did not fall within section 34, 35 or 36 of ICTA.
- (2) So far as relief for the loss has not previously been given, the loss (or the unused part of it) is to be treated as a loss available for deduction in accordance with section 153.

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PART 6

LOSSES ON DISPOSAL OF SHARES

Qualifying trading companies

- 38 (1) In relation to shares issued before 17 March 2004, section 134(2)(a) applies with the omission of sub-paragraph (iv) and the “and” immediately before it.
- (2) In relation to shares issued before 6 April 1998, section 134 applies with the substitution for subsections (2) to (5) of—
- “(2) Condition A is that the company either—
- (a) is a trading company on the date of the disposal, or
 - (b) has ceased to be a trading company at a time which is not more than 3 years before that date and has not since that time been an excluded company or an investment company.
- (3) Condition B is that the company either—
- (a) has been a trading company for a continuous period of 6 years ending on that date or at that time, or
 - (b) has been a trading company for a shorter continuous period ending on that date or [^{F1}at that time and has not before] the beginning of that period been an excluded company or an investment company.
- (4) Condition C is that none of the shares in the company has been listed on a recognised stock exchange at any time in the period—
- (a) beginning with the incorporation of the company or, if later, 12 months before the date on which the shares in question were subscribed for, and
 - (b) ending with the date on which the shares are disposed of.
- (5) Condition D is that the company has been UK resident throughout the period from its incorporation until the date of the disposal.”
- (3) In relation to shares issued before 7 March 2001, section 134(4)(b) applies with the substitution for “at the relevant time” of “throughout the relevant period”.
- (4) For the purposes of sub-paragraph (3), shares that were issued—
- (a) ^{F2}... after 5 April 1998, but
 - (b) before 7 March 2001,
- are treated as having been issued ^{F2}... after 7 March 2001 in respect of any part of the relevant period which falls ^{F2}... after that date.
- (5) Sub-paragraphs (1) to (4) apply in relation to section 576A of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 134.

Textual Amendments

- F1** Words in [Sch. 2 para. 38\(2\)](#) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [Income Tax Act 2007 \(Amendment\) Order 2007 \(S.I. 2007/940\)](#), arts. 1(1), [2\(2\)\(a\)](#)

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- F2** Words in [Sch. 2 para. 38\(4\)](#) omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of [Income Tax Act 2007 \(Amendment\) Order 2007 \(S.I. 2007/940\)](#), arts. 1(1), **2(2)(b)**

Disposals of new shares

- 39 (1) In relation to new shares issued before 6 April 2007, section 136(2) applies with the omission of “This is subject to section 145(3).”
- (2) In this paragraph “new shares” is to be read in accordance with section 145.

The trading requirement

- 40 (1) In relation to shares issued before 6 April 2007, section 137 applies with the following modifications—
- (a) the omission of subsection (2),
 - (b) in subsection (5), the omission of paragraph (d)(ii) and the “or” immediately before it, and
 - (c) the omission of subsection (6).
- (2) In relation to shares issued before 6 April 2000, section 137 applies with the substitution for the definition of “research and development” in subsection (7) of—
- ““research and development” means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program.”
- (3) Section 137 does not apply in relation to shares issued before 6 April 1998.
- (4) Sub-paragraphs (1) to (3) apply in relation to section 576B of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 137.

Ceasing to meet trading requirement because of administration or receivership

- 41 (1) In relation to shares issued before 17 March 2004, section 138 applies with the following modifications—
- (a) in subsection (1), the omission of “merely” and the substitution for “the company or any of its subsidiaries” of “its”,
 - (b) in subsection (2)(b), the omission of “concerned”,
 - (c) in subsection (3)(a), the omission of “or any of its subsidiaries”,
 - (d) in subsection (3)(b), the omission of “or any of its subsidiaries”, and
 - (e) in subsection (4), the omission of “is”, in the second place where it occurs.
- (2) In relation to an administration order the petition for which was presented before 15 September 2003, section 138(2) applies with the substitution for paragraph (a) of—
- “(a) the making of the order in question, and”.
- (3) In relation to shares issued before 21 March 2000, section 138 applies with the omission of subsections (1) and (2).
- (4) In the application of sub-paragraph (3) on or after 21 March 2000, shares—
- (a) that were issued on or after 6 April 1998 but before 21 March 2000, and

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(b) to which EIS relief or relief under Schedule 5B to TCGA 1992 was attributable immediately before 21 March 2000,
are treated as having been issued on or after 21 March 2000.

- (5) Section 138 does not apply in relation to shares issued before 6 April 1998.
- (6) Sub-paragraphs (1) to (5) apply in relation to section 576C of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 138.

The control and independence requirement

- 42 (1) In relation to shares issued before 6 April 2007, section 139(1)(a) applies with the omission of “of the company”.
- (2) In relation to shares issued before 21 March 2000, section 139 applies with the following modifications—
- (a) the substitution for subsections (1) to (3) of—
- “(1) The control element of the requirement is that—
- (a) the company must not control (or together with any person connected with it control) another company or have a 51% subsidiary, and
- (b) no arrangements must be in existence by virtue of which the company could fail to meet paragraph (a).
- (2) The independence element of the requirement is that—
- (a) the company must not be under the control of another company (or another company and any other person connected with that company) or be a 51% subsidiary of another company, and
- (b) no arrangements must be in existence by virtue of which the company could fail to meet paragraph (a).
- (3) This section is subject to section 145(3); and nothing in subsection (1) prevents the company having one or more qualifying subsidiaries.”, and
- (b) in subsection (4) the omission of the definition of “arrangements” and, in the definition of “control”, the omission of “in subsection (1)(a)”.
- (3) In the application of sub-paragraph (2) on or after 21 March 2000, shares—
- (a) that were issued on or after 6 April 1998 but before 21 March 2000, and
- (b) to which EIS relief or relief under Schedule 5B to TCGA 1992 was attributable immediately before 21 March 2000,
are treated as having been issued on or after 21 March 2000.
- (4) Section 139 does not apply in relation to shares issued before 6 April 1998.
- (5) Sub-paragraphs (1) to (4) apply in relation to section 576D of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 139.
- (6) For the purposes of sub-paragraph (5), sub-paragraph (2) applies with the following modifications—

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- (a) in paragraph (a), the substitution for “section 145(3)” of “section 576J(3)”, and
- (b) in paragraph (b), the insertion at the end of “and paragraph (b)”.

The qualifying subsidiaries requirement

- 43 (1) Section 140 does not apply in relation to shares issued before 6 April 1998.
- (2) Sub-paragraph (1) applies in relation to section 576E of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 140.

The property managing subsidiaries requirement

- 44 (1) Section 141 does not apply in relation to shares issued before 17 March 2004.
- (2) Sub-paragraph (1) applies in relation to section 576F of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 141.

The gross assets requirement

- 45 (1) In relation to shares issued before 6 April 2006, section 142 applies with the substitution in subsections (1) and (2)—
- (a) of “£15 million” for “£7 million”, and
 - (b) of “£16 million” for “£8 million”.
- (2) For the purposes of sub-paragraph (1) shares issued on or after 6 April 2006 to a person who subscribed for them before 22 March 2006 are treated as having been issued before 6 April 2006.
- (3) Section 142 does not apply in relation to shares issued before 6 April 1998.
- (4) Sub-paragraphs (1) to (3) apply in relation to section 576G of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 142.

The unquoted status requirement

- 46 (1) In relation to shares issued before 7 March 2001, section 143 applies with the following modifications—
- (a) the substitution for subsection (1) of—

“(1) The unquoted status requirement is that the company must be an unquoted company throughout the relevant period.”,
 - (b) the substitution for subsection (2) of—

“(2) If the company is an unquoted company at the time when any shares are issued, it is not treated for the purposes of this section as ceasing to be an unquoted company in relation to those shares at any subsequent time merely because any shares, stocks, debentures or other securities of the company are at that time—

 - (a) listed on an exchange designated by an order made for the purposes of section 184(3)(b), or

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- (b) dealt in by any means designated by an order made for the purposes of section 184(3)(c),
if the order was made after the shares were issued.”, and
- (c) in subsection (3) the substitution for the definition of “arrangements” of—
““the relevant period” means the period—
(a) beginning with the incorporation of the company or, if later, the date one year before the issue of the shares in question, and
(b) ending with the date of the disposal.”
- (2) For the purposes of sub-paragraph (1)(a) and (c), shares that were issued—
(a) ^{F3}...after 5 April 1998, but
(b) before 7 March 2001,
are treated as having been issued on or after 7 March 2001 in respect of any part of the relevant period which falls on or after that date.
- (3) In the application of sub-paragraph (1)(b) on or after 7 March 2001, shares—
(a) that were issued ^{F4}... after 5 April 1998 but before 7 March 2001, and
(b) to which EIS relief or relief under Schedule 5B to TCGA 1992 was attributable immediately before 7 March 2001,
are treated as having been issued on or after 7 March 2001.
- (4) Section 143 does not apply in relation to shares issued before 6 April 1998.
- (5) Sub-paragraphs (1) to (4) apply in relation to section 576H of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 143.
- (6) For the purposes of sub-paragraph (5), sub-paragraph (1) applies with the insertion after “section 184(3)(b)” and “section 184(3)(c)” of “of ITA 2007”.

Textual Amendments

F3 Words in *Sch. 2 para. 46(2)(a)* omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of *Income Tax Act 2007 (Amendment) Order 2007 (S.I. 2007/940)*, arts. 1(1), 2(3)

F4 Words in *Sch. 2 para. 46(3)(a)* omitted (with effect in accordance with art. 1(2) of the amending S.I.) by virtue of *Income Tax Act 2007 (Amendment) Order 2007 (S.I. 2007/940)*, arts. 1(1), 2(3)

Power to amend requirements by Treasury order

- 47 (1) Section 144 does not apply in relation to shares issued before 6 April 1998.
(2) Sub-paragraph (1) applies in relation to section 576I of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 144.

Relief after an exchange of shares for shares in another company

- 48 (1) In relation to new shares issued before 6 April 2007, section 145 applies with—
(a) the substitution for subsection (1)(e) of—

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- “(e) before the issue of the new shares, the Commissioners for Her Majesty's Revenue and Customs have, on the application of the new company or the old company, notified that company that the exchange of shares—
- (i) will be effected for genuine commercial reasons, and
 - (ii) will not form part of any such scheme or arrangement as is mentioned in section 137(1) of TCGA 1992.”, and
- (b) the omission of subsection (3)(a).
- (2) Section 145 does not apply in relation to shares issued before 6 April 1998.
- (3) Sub-paragraphs (1)(a) and (2) apply in relation to section 576J of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 145.
- (4) For the purposes of sub-paragraph (3), sub-paragraph (1) applies with the substitution for “TCGA 1992” of “the 1992 Act”.

Substitution of new shares for old shares

- 49 (1) Section 146 does not apply in relation to shares issued before 6 April 1998.
- (2) Sub-paragraph (1) applies in relation to section 576K of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 146.

Interpretation of Chapter

- 50 (1) In relation to shares issued before 6 April 1998, section 151 applies with the following modifications—
- (a) in the definition of “excluded company” in subsection (1), the substitution for “in land, in commodities or futures or in shares, securities or other financial instruments” of “in shares, securities, land, trades or commodity futures”,
 - (b) in subsection (7), the insertion after “excluded company” of “or is a non-UK resident”.
- (2) Sub-paragraph (1) applies in relation to section 576L of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 151.
- (3) For the purposes of sub-paragraph (2), sub-paragraph (1)(b) has effect with the substitution for “subsection (7)” of “subsection (5)”.

Meaning of “qualifying subsidiary”

- 51 (1) In relation to shares issued before 17 March 2004, section 191 (as applied by sections 137(7), 139(4), 140(2) and 142(4)) applies with the following modifications—
- (a) in subsection (1), the insertion at the end of “and, except as provided by subsection (3), continue to be met until the time that is relevant for the purposes of section 134(2)”,

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- (b) in subsection (2), the substitution for paragraph (a) of—
 - “(a) the relevant company, or another of its subsidiaries, possesses at least 75% of the issued share capital of, and at least 75% of the voting power in, the subsidiary,
 - (aa) the relevant company, or another of its subsidiaries, would in the event of a winding up of the subsidiary, or in any other circumstances, be beneficially entitled to receive at least 75% of the assets of the subsidiary which would then be available for distribution to the equity holders of the subsidiary,
 - (ab) the relevant company, or another of its subsidiaries, is beneficially entitled to at least 75% of any profits of the subsidiary which are available for distribution to the equity holders of the subsidiary.”
 - (c) in paragraph (c) of subsection (2), the substitution for “either of the conditions in paragraphs (a) and (b)” of “any of the conditions in paragraphs (a), (aa), (ab) and (b)”
 - (d) in subsection (3), the substitution for “any other company” of “the relevant company” and the substitution for the words from “the winding up or dissolution” to the end of that subsection of—
 - “(a) the winding up or dissolution is for genuine commercial reasons, and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax,
 - (b) the net assets, if any, of the subsidiary or, as the case may be, the relevant company are distributed to its members, or dealt with as bona vacantia, before the time that is relevant for the purposes of section 134(2) or, in the case of a winding up, the end (if later) of 3 years from the commencement of the winding up.”
 - (e) the omission of subsection (4),
 - (f) in subsection (5), the substitution for “arrangements are in existence for” of “of” and the insertion after “another subsidiary” of “within the continuous period that is relevant for the purposes of section 134(3)”
 - (g) in subsection (5)(a), the omission of “to be”
 - (h) in subsection (5)(b), the substitution for “is not to be” of “not”, and
 - (i) after subsection (5), the insertion of—
 - “(6) The persons who are equity holders of a subsidiary, and the percentage of the assets of a subsidiary to which an equity holder would be entitled, is to be determined in accordance with paragraphs 1 and 3 of Schedule 18 to ICTA, taking—
 - (a) references in paragraph 3 to the first company as references to an equity holder, and
 - (b) references to a winding up as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.”
- (2) Sub-paragraph (1) applies in relation to section 191 as applied by sections 576B(7), 576D(4), 576E(2) and 576G(4) of ICTA (which make corresponding provision for

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the purposes of corporation tax) as it applies in relation to section 191 as applied by sections 137(7), 139(4), 140(2) and 142(4).

- (3) For the purposes of sub-paragraph (2), sub-paragraph (1) applies with—
- (a) in paragraphs (a) and (d), the substitution for “section 134(2)” of “section 576A(2) of ICTA”, and
 - (b) in paragraph (f), the substitution for “section 134(3)” of “section 576A(3) of ICTA”.

Meaning of “excluded activities”

- 52 (1) In relation to shares issued before 7 March 2001, section 192(1) (as applied by section 137(7)) applies with the insertion after paragraph (c) of—
- “(ca) oil extraction activities (within the meaning of Chapter 5 of Part 12 of ICTA),”.
- (2) In the application of sub-paragraph (1) on or after 7 March 2001, shares—
- (a) that were issued on or after 6 April 1998 but before 7 March 2001, and
 - (b) to which EIS relief or relief under Schedule 5B to TCGA 1992 was attributable immediately before 7 March 2001,
- are treated as having been issued on or after 7 March 2001.
- (3) Sub-paragraphs (1) and (2) apply in relation to section 192(1) as applied by section 576B(7) of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 192(1) as applied by section 137(7).

Excluded activities: wholesale and retail distribution

- 53 (1) In relation to shares issued before 6 April 2007, section 193(5)(b) (as applied by section 137(7)) applies with the following modifications—
- (a) the insertion after “held” of “by the company”, and
 - (b) the substitution for “the trader” of “a vendor”.
- (2) Sub-paragraph (1) applies in relation to section 193(5)(b) as applied by section 576B(7) of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 193(5)(b) as applied by section 137(7).

Excluded activities: leasing of ships

- 54 (1) In relation to shares issued before 6 April 2007, section 194 (as applied by the definition of “non-qualifying activities” in section 137(7)) applies with the omission of subsection (7).
- (2) In relation to shares issued before 6 April 2004, section 194 (as applied by section 137(7)) applies with the following modifications—
- (a) in subsection (1), the substitution for “offshore installations” of “oil rigs”,
 - (b) in subsection (2), the substitution for “offshore installation” of “oil rig”, and
 - (c) in subsection (8), the insertion after “this section” of—

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““oil rig” means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971.”.

- (3) Sub-paragraphs (1) and (2) apply in relation to section 194 as applied by section 576B(7) of ICTA (which makes corresponding provision for the purposes of corporation tax) as they apply in relation to section 194 as applied by section 137(7).

Excluded activities: receipt of royalties and licence fees

- 55 (1) In relation to shares issued before 6 April 2000, Chapter 6 of Part 4 applies with the substitution for section 195 (as applied by section 137(7)) of—

“195 Excluded activities: receipt of royalties and licence fees

- (1) This section supplements section 192(1)(e) (receipt of royalties and licence fees).
- (2) A trade is not to be regarded as consisting in the carrying on of excluded activities within section 192(1)(e) as a result only of it consisting to a substantial extent in the receiving of royalties or licence fees if—
- (a) the company carrying on the trade is engaged throughout the relevant period in—
- (i) the production of films, or
- (ii) the production of films and the distribution of films produced by it in the relevant period, and
- (b) all royalties and licence fees received by it in the relevant period are in respect of films produced by it in that period or sound recordings in relation to such films or other products arising from such films.
- (3) A trade is not to be regarded as consisting in the carrying on of excluded activities within section 192(1)(e) as a result only of it consisting to a substantial extent in the receiving of royalties or licence fees if—
- (a) the company carrying on the trade is engaged in research and development throughout the relevant period, and
- (b) all royalties and licence fees received by it in the relevant period are attributable to research and development which it has carried out.
- (4) In this section “the relevant period” means the continuous period that is relevant for the purposes of section 134(3).”

- (2) Sub-paragraph (1) applies in relation to section 195 as applied by section 576B(7) of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 195 as applied by section 137(7).
- (3) For the purposes of sub-paragraph (2) sub-paragraph (1) applies with the substitution for “section 134(3)” of “section 576A(3) of ICTA”.

Excluded activities: provision of services or facilities for another business

- 56 (1) In relation to shares issued before 6 April 2007, section 199 (as applied by section 137(7)) applies with the following modifications—

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- (a) in subsections (1) to (4), the substitution of “trade” for “business”, wherever it occurs, and
 - (b) in subsection (5) the substitution for paragraph (b) of—
 - “(b) references to a trade, in relation to the provider of the services or facilities, are to be read without regard to the definition of “trade” in section 989, and
 - (c) “trade”, in relation to the other person, includes any business, profession or vocation”.
- (2) Sub-paragraph (1) applies in relation to section 199 as applied by section 576B(7) of ICTA (which makes corresponding provision for the purposes of corporation tax) as it applies in relation to section 199 as applied by section 137(7).

Meaning of a company being “in administration”

- 57 (1) Sub-paragraph (2) applies in relation to—
- (a) an administration order under Part 3 of the Insolvency (Northern Ireland) Order 1989 the petition for which was presented before 6 April 2007, or
 - (b) any corresponding order under the law of a country or territory outside the United Kingdom the proceedings for which were instituted before that date.
- (2) Section 252 (as it applies for the purposes of Chapter 6 of Part 4) applies with the substitution for subsection (2) of—
- “(2) A company is “in administration” if—
- (a) it is in administration within the meaning of Schedule B1 to the Insolvency Act 1986, or
 - (b) there is in force in relation to it—
 - (i) an administration order under Part 3 of the Insolvency (Northern Ireland) Order 1989, or
 - (ii) any corresponding order under the law of a country or territory outside the United Kingdom.”
- (3) For the purposes of sub-paragraph (2), section 252 applies for the purposes of Chapter 6 of Part 4 in any case where—
- (a) it is applied by section 138(5),
 - (b) it applies for the purposes of section 190 as applied by section 141(2), or
 - (c) it applies for the purposes of section 191 as applied by section 137(7), 139(4), 140(2) or 142(4).
- (4) In relation to an administration order under Part 2 of the Insolvency Act 1986 the petition for which was presented before 15 September 2003, section 252 (as applied by section 138(5)) applies with the substitution for subsection (2) of—
- “(2) A company is “in administration” if there is in force in relation to it—
- (a) an administration order under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989, or
 - (b) any corresponding order under the law of a country or territory outside the United Kingdom.”
- (5) Section 252 (as applied by section 138(5)) does not apply in relation to shares issued before 21 March 2000.

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- (6) In the application of sub-paragraph (5) on or after 21 March 2000, shares—
- (a) that were issued on or after 6 April 1998 but before 21 March 2000, and
 - (b) to which EIS relief or relief under Schedule 5B to TCGA 1992 was attributable immediately before 21 March 2000,
- are treated as having been issued on or after 21 March 2000.
- (7) Sub-paragraphs (1) to (6) apply in relation to Chapter 5A of Part 13 of ICTA and section 576C(5) of that Act (which make corresponding provision for the purposes of corporation tax) as they apply in relation to Chapter 6 of Part 4 and section 138(5).
- (8) For the purposes of sub-paragraph (7), section 252 applies for the purposes of Chapter 5A of Part 13 of ICTA in any case where—
- (a) it is applied by section 576C(5) of ICTA,
 - (b) it applies for the purposes of section 190 as applied by section 576F(2) of ICTA, or
 - (c) it applies for the purposes of section 191 as applied by section 576B(7), 576D(4), 576E(2) or 576G(4) of ICTA.

PART 7

ENTERPRISE INVESTMENT SCHEME

The gross assets requirement

- 58 (1) In relation to shares to which sub-paragraph (2) or (3) applies, section 186 applies with the substitution in subsections (1) and (2)—
- (a) of “£15 million” for “£7 million”, and
 - (b) of “£16 million” for “£8 million”.
- (2) This sub-paragraph applies to shares issued to a person who subscribed for them before 22 March 2006.
- (3) This sub-paragraph applies to shares issued to the managers of an investment fund approved for the purposes of section 251 by the Commissioners for Her Majesty's Revenue and Customs if—
- (a) the fund was approved before 22 March 2006,
 - (b) investments in the fund have been accepted before 6 April 2006, and
 - (c) the shares are issued to the managers as nominee for an individual who has (whether or not before 6 April 2006) invested in the fund.

PART 8

VENTURE CAPITAL TRUSTS

Eligibility for relief

- 59 Section 261(4) does not apply in relation to shares acquired by a company before 1 December 2003.

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Form and amount of relief

- 60 (1) In relation to shares issued before 6 April 2006, section 263(2) applies with the substitution of “tax at the higher rate for the tax year on” for “30% of”.
- (2) In relation to shares issued before 6 April 2004, section 263(2) applies with the substitution of “the savings rate” for “the higher rate”.

No entitlement to relief if there is a linked loan

- 61 In relation to shares issued before 6 April 2006, section 264(3) applies with the substitution, in paragraph (b) of the definition of “the relevant period”, of “the third anniversary” for “the fifth anniversary”.

Loss of relief if shares disposed of within 5 years

- 62 (1) In relation to shares issued before 6 April 2006—
- (a) subsection (1) of section 266 applies with the substitution of “3 years” for “5 years”, and
 - (b) subsection (4) of that section applies with the omission of “30% of” and the insertion at the end of “multiplied by the higher rate for the tax year in which the shares were issued”.
- (2) In relation to shares issued before 6 April 2004, section 266(4) applies with the substitution of “the savings rate” for “the higher rate”.

Interpretation of Chapter 2

- 63 (1) In relation to shares issued before 6 April 2007, section 273(1) applies as if it gave “eligible shares” the same meaning as that given by paragraph 6(1) of Schedule 15B to ICTA at the time of the issue of the shares.
- (2) In relation to shares issued before 6 April 2006, section 273(1) applies with the substitution of “3 years” for “5 years”.

The 15% holding limit condition

- 64 In relation to shares or securities issued before 17 April 2002, section 277(5) applies with the following modifications—
- (a) the insertion after “reconstruction”, in the first place where it occurs, of “or amalgamation”, and
 - (b) the omission of the words from “In this subsection” to the end.

Conditions relating to value of investments

- 65 (1) Sub-paragraph (2) applies if any question arises which—
- (a) would otherwise fall to be determined in accordance with section 278, and
 - (b) is a question whether, in a case where a company (“company A”) holds investments in a company (“company B”) immediately before 6 April 2007, the 15% holding condition is met if there is an addition to the holding on or after that date.
- (2) Any such question is to be determined in accordance with—

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- (a) section 842AA(11)(c) of ICTA, and
 - (b) section 842(3) and (4) of that Act as applied by that provision,
- until such time as company A ceases to hold investments in company B.

- (3) Except in a case to which sub-paragraph (2) applies, section 278(5) applies in relation to investments issued before 17 April 2002 with the following modifications—
- (a) the insertion after “reconstruction”, in the first place where it occurs, of “or amalgamation”, and
 - (b) the omission of the words from “In this subsection” to the end.

Conditions relating to qualifying holdings and eligible shares: supplementary

- 66 Section 280(3) does not apply in relation to shares issued before 17 April 2002.

Interpretation of Chapter 3

- 67 Section 285 applies with the omission of subsections (4) to (6) for the purposes of determining whether, at any time before 6 April 2007, the conditions mentioned in section 274(2) are, will be or were met with respect to a company.

The maximum qualifying investment requirement

- 68 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 287(3)(b) does not apply in relation to shares or securities issued before 6 April 2007.

The no guaranteed loan requirement

- 69 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 288 does not apply in relation to shares or securities acquired by a company by means of the investment of—
- (a) money raised by the issue before 2 July 1997 of shares in or securities of the investing company, or
 - (b) money derived from the investment by that company of any such money.

The proportion of eligible shares requirement

- 70 (1) If at any time the requirement of section 289—
- (a) would be met in relation to a relevant holding and a company if none of the old investments were held by the investing company at that time, but
 - (b) would not otherwise be met,
- that section applies in relation to that holding as if the old investments were not held by the investing company at that time.
- (2) In sub-paragraph (1) “old investments” means shares in or securities of the relevant company acquired by means of the investment of—
- (a) money raised by the issue before 2 July 1997 of shares in or securities of the investing company, or
 - (b) money derived from the investment by that company of any such money.

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The trading requirement

- 71 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 290 applies in relation to shares or securities issued before 6 April 2007 with the following modifications—
- (a) the omission of subsections (2) and (6), and
 - (b) in subsection (5)(d), the omission of sub-paragraph (ii) and the “or” immediately before it.

The carrying on of a qualifying activity requirement

- 72 (1) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 291 applies in relation to shares or securities issued before 6 April 2007 with the omission of subsection (8).
- (2) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 291 applies in relation to shares or securities issued before 17 March 2004 with the following modifications—
- (a) in subsection (1), the substitution for “a qualifying company (whether or not the same such company at every such time)” of “the qualifying company”,
 - (b) in subsection (3), the substitution for “was intended to be carried on” of “it intended to carry on” and the omission of “by a qualifying company”,
 - (c) in subsection (4)(a), the substitution for “a qualifying company” of “the qualifying company”,
 - (d) in subsection (4)(b), the substitution for “at all times since the end of that period, a qualifying company (whether or not the same such company at every such time) has” of “the qualifying company has at all times since the end of that period”, and
 - (e) the omission of subsection (6).

Ceasing to meet the requirement because of administration or receivership

- 73 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 292(1) applies in relation to shares or securities issued before 17 March 2004 with the omission of “merely”.

The use of the money raised requirement

- 74 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 293 applies in relation to shares or securities issued before 17 March 2004 with the following modifications—
- (a) in subsection (2), the substitution for “has been or is intended to be employed” of “is money which the qualifying company has employed or intends to employ”, and
 - (b) in subsection (5)(b), the substitution for “a qualifying company” of “the qualifying company”.

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The relevant company to carry on the relevant qualifying activity requirement

- 75 (1) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 294 applies in relation to shares or securities issued before 6 April 2007 with the following modifications—
- (a) in subsections (1) and (6) the substitution for “relevant qualifying activity” of “qualifying activity”,
 - (b) in subsection (1) the substitution for “section 293” of “section 291”, and
 - (c) the omission of subsection (7).
- (2) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, Chapter 4 of Part 6 of this Act applies in relation to shares or securities issued before 17 March 2004 with the substitution for section 294 of—

“294 Further requirements as to the money raised by the investment in question

- (1) If—
 - (a) the relevant company is a parent company, and
 - (b) the business of the group does not consist wholly or as to a substantial part in the carrying on of non-qualifying activities,
 the requirements of this section are not met unless one or more of the following conditions is met.
- (2) Condition A is that the trader company meets the requirement of section 290(1)(a).
- (3) Condition B is that the trader company would meet that requirement if its purposes were ignored so far as they consist in the carrying on of activities in section 290(5).
- (4) Condition C is that the trader company is a [^{F5}qualifying 90% subsidiary of the relevant company] and—
 - (a) apart from incidental purposes, it exists wholly for the purposes of carrying on activities such as those in section 290(5)(c) and (d), or
 - (b) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.
- (5) In this section—
 - “the business of the group” has the same meaning as it has for the purposes of subsection (1)(b) of section 290,
 - “incidental purposes” and “non-qualifying activities” have the same meaning as in that section,
 - “the trader company” means the company (whether the relevant company or a qualifying subsidiary of the relevant company) carrying on the qualifying activity which meets the requirement of section 291.”

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Textual Amendments

- F5** Words in [Sch. 2 para. 75\(2\)](#) substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [Income Tax Act 2007 \(Amendment\) \(No.2\) Order 2007 \(S.I. 2007/1820\)](#), arts. 1(1), **4(3)**

The gross assets requirement

- 76 (1) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 297 applies in relation to shares or securities issued on or after 6 April 1998 and before 6 April 2006 with the substitution in subsections (1) and (2)—
- (a) of “£15 million” for “£7 million”, and
 - (b) of “£16 million” for “£8 million”.
- (2) For the purposes of sub-paragraph (1) any shares or securities acquired by a company at any time by means of the investment of—
- (a) money raised by the issue before 6 April 2006 of shares in or securities of the investing company, or
 - (b) money derived from the investment by that company of any such money, are treated as having been issued before 6 April 2006.
- (3) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 297 applies in relation to shares or securities issued before 6 April 1998 with the substitution in subsections (1) and (2)—
- (a) of “£10 million” for “£7 million”, and
 - (b) of “£11 million” for “£8 million”.

The property managing subsidiaries requirement

- 77 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 299 does not apply in relation to shares or securities issued before 17 March 2004.

Meaning of “qualifying trade”

- 78 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 300 applies in relation to shares or securities issued before 6 April 2007 with the following modifications—
- (a) in subsection (2), the omission of paragraph (b) and the “or” immediately before it, and
 - (b) the omission of subsection (3).

Meaning of “qualifying 90% subsidiary”

- 79 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 301 does not apply in relation to shares or securities issued before 17 March 2004.

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Meaning of “qualifying subsidiary”

80 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 302 applies in relation to shares or securities issued before 17 March 2004 with the following modifications—

- (a) the substitution for subsection (2)(a) of—
 - “(a) the relevant company, or another of its subsidiaries, possesses at least 75% of the issued share capital of, and at least 75% of the voting power in, the subsidiary,
 - (aa) the relevant company, or another of its subsidiaries, would in the event of a winding up of the subsidiary, or in any other circumstances, be beneficially entitled to receive at least 75% of the assets of the subsidiary which would then be available for distribution to the equity holders of the subsidiary,
 - (ab) the relevant company, or another of its subsidiaries, is beneficially entitled to at least 75% of any profits of the subsidiary which are available for distribution to the equity holders of the subsidiary,”
- (b) in subsection (2)(c), the substitution for “either of the conditions in paragraphs (a) and (b)” of “any of the conditions in paragraphs (a), (aa), (ab) and (b)”,
- (c) in subsection (3), the omission of “or any other company” and the substitution for paragraphs (a) and (b) of “is for genuine commercial reasons, and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax”,
- (d) the omission of subsection (4),
- (e) in subsection (5), the substitution for paragraphs (a) and (b) of “is to be for genuine commercial reasons, and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax”,
- (f) after subsection (5) the insertion of—
 - “(6) For the purposes of this section the persons who are equity holders of a subsidiary, and the percentage of the assets of the subsidiary to which an equity holder would be entitled, is to be determined in accordance with paragraphs 1 and 3 of Schedule 18 to ICTA, taking—
 - (a) references in paragraph 3 to the first company as references to the equity holder, and
 - (b) references to a winding up as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.”

Meaning of “excluded activities”

81 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings at any time, section 303(1)(g) to (k) (and accordingly sections 307 to 309) do not apply in relation to shares or securities acquired by the company by means of the investment of—

- (a) money raised by the issue before 17 March 1998 of shares in or securities of the investing company, or

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- (b) money derived from the investment by that company of any such money.

Excluded activities: wholesale and retail distribution

- 82 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 304 applies in relation to shares or securities issued before 6 April 2007 with the following modifications—
- (a) in subsection (5)(b), the insertion after “held” of “by the company” and the substitution for “the trader” of “a vendor”, and
 - (b) in subsection (6), the substitution for “of wholesale or retail distribution”, in the first place where it occurs, of “carried on by any person” and the substitution for “the trader”, in each place where it occurs, of “that person”.

Excluded activities: leasing of ships

- 83 (1) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 305 as applied by the definition of “non-qualifying activities” in section 290(8) applies in relation to shares or securities issued before 6 April 2007 with the omission of subsection (7).
- (2) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 305 applies in relation to shares or securities issued before 6 April 2004 with the following modifications—
- (a) in subsection (1), the substitution for “offshore installations” of “oil rigs”,
 - (b) in subsection (2), the substitution for “offshore installation” of “oil rig”,
 - (c) in subsection (8), the insertion after “this section” of—
- ““oil rig” means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971.”.

Excluded activities: receipt of royalties and licence fees

- 84 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 306 applies in relation to shares or securities issued before 6 April 2000 with the substitution for subsections (2) to (6) of—
- “(2) If the requirement of subsection (3) or (4) is met, a trade is not to be regarded as consisting in the carrying on of excluded activities within section 303(1) (e) as a result only of its consisting to a substantial extent in the receiving of royalties of licence fees.
- (3) The requirement of this subsection is that—
- (a) the company carrying on the trade is engaged in—
 - (i) the production of films, or
 - (ii) the production of films and the distribution of films produced by it since the issue of the relevant holding, and
 - (b) all royalties and licence fees received by it are in respect of—
 - (i) films produced by it since the issue of the relevant holding,
 - (ii) sound recordings in relation to such films, or
 - (iii) other products arising from such films.

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- (4) The requirement of this subsection is that—
- (a) the company carrying on the trade is engaged in research and development, and
 - (b) all royalties and licence fees received by it are attributable to research and development which it has carried out.”

Excluded activities: provision of services or facilities for another business

- 85 (1) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 310 applies in relation to shares or securities issued before 6 April 2007 with the following modifications—
- (a) in subsections (1) to (4), the substitution of “trade” for “business”, wherever it occurs, and
 - (b) in subsection (5) the substitution for paragraph (b) of—
 - “(b) “trade” includes business, profession or vocation where what is carried on is carried on by a person other than a company.”
- (2) For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings at any time, section 310(1)(a) applies in relation to shares or securities acquired by the company by means of the investment of—
- (a) money raised by the issue before 17 March 1998 of shares in or securities of the investing company, or
 - (b) money derived from the investment by that company of any such money, with the substitution for “paragraphs (a) to (k)” of “paragraphs (a) to (f)”.

Winding up of the relevant company

- 86 For the purpose of determining whether shares or securities are to be regarded as comprised in a company's qualifying holdings, section 312(b) applies in relation to shares or securities issued before 17 March 2004 with the substitution for “is not” of “not”.

Acquisitions for restructuring purposes etc

- 87 Sections 326 to 329 do not apply in relation to arrangements made, or rights of conversion exercised, before 16 June 1999.

Power to facilitate company reorganisations

- 88 Section 330 does not apply in relation to exchanges of shares or securities taking effect before 21 March 2000.

Meaning of a company being “in administration”

- 89 (1) Sub-paragraph (2) applies in relation to—
- (a) an administration order under Part 3 of the Insolvency (Northern Ireland) Order 1989 the petition for which was presented before 6 April 2007, or
 - (b) any corresponding order under the law of a country or territory outside the United Kingdom the proceedings for which were instituted before that date.

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(2) Section 331 applies with the substitution for subsection (2) of—

“(2) A company is “in administration” if—

- (a) it is in administration within the meaning of Schedule B1 to the Insolvency Act 1986, or
- (b) there is in force in relation to it—
 - (i) an administration order under Part 3 of the Insolvency (Northern Ireland) Order 1989, or
 - (ii) any corresponding order under the law of a country or territory outside the United Kingdom.”

(3) In relation to an administration order under Part 2 of the Insolvency Act 1986 the petition for which was presented before 15 September 2003, section 331 applies with the substitution for subsection (2) of—

“(2) A company is “in administration” if there is in force in relation to it—

- (a) an administration order under Part 2 of the Insolvency Act 1986 or Part 3 of the Insolvency (Northern Ireland) Order 1989, or
- (b) any corresponding order under the law of a country or territory outside the United Kingdom.”

Meaning of “company”, “shares” and “research and development” in Part 6

90 (1) This paragraph applies in relation to the meaning of “company”, “shares” and “research and development” in Part 6 (see section 332).

(2) If—

- (a) a company holds investments of any description in an entity immediately before 6 April 2007, and
- (b) the entity is a company for any purposes of the Part 6 provisions but not for the corresponding purposes of the ICTA provisions,

any question whether the entity is a company for those purposes of the Part 6 provisions is to be determined in accordance with the ICTA provisions until such time as the company ceases to hold investments of that description.

(3) If—

- (a) a company holds investments of any description in an entity immediately before 6 April 2007, and
- (b) the investments are shares for any purposes of either of the following—
 - (i) the Part 6 provisions, and
 - (ii) the ICTA provisions,

but not for the corresponding purposes of the other set of provisions,

any question whether the investments are shares for those purposes of the Part 6 provisions is to be determined in accordance with the ICTA provisions until such time as the company ceases to hold investments of that description.

(4) In sub-paragraphs (2) and (3)—

“the ICTA provisions” means section 842AA of ICTA (VCT approvals) and Schedule 28B to that Act (qualifying holdings),

“the Part 6 provisions” means Chapter 3 of Part 6 (VCT approvals) and Chapter 4 of that Part (qualifying holdings).

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- (5) For the purpose of determining whether any shares or securities are to be regarded as comprised in a company's qualifying holdings, section 332 applies in relation to shares issued before 6 April 2000 with the substitution for the definition of “research and development” of—

““research and development” means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program.”

PART 9

OTHER RELIEFS

Interest: loans for interests in close companies

- 91 Section 392(3)(a) does not apply if the shares were acquired before 14 March 1989.
- 92 Section 392(3)(b) does not apply if the shares were acquired before 6 April 1989.
- 93 (1) In relation to a loan made before 14 November 1986—
- (a) section 395(1)(c) applies with the substitution for “the trustees of” of “any person (other than the individual) interested in”, and
 - (b) section 395(1)(d) applies with the substitution for “the personal representatives” of “any person (other than the individual) interested in the estate”.
- (2) No individual is an associate because of sub-paragraph (1)(a) if the trust relates exclusively to a registered pension scheme.
- (3) No individual is an associate because of sub-paragraph (1)(a) if —
- (a) the trust—
 - (i) is exclusively for the benefit of the employees, or the employees and directors, of the company or their dependants, and
 - (ii) is not wholly or mainly for the benefit of the directors or their relatives, and
 - (b) the individual—
 - (i) is not (either alone or with relatives) the beneficial owner of more than 5% of the company's ordinary share capital, and
 - (ii) could not become so as a result of the operation of the trust.
- (4) For the purposes of sub-paragraph (3)(b), charitable trusts that may arise on the failure or determination of other trusts are ignored.
- (5) In relation to any time before 6 April 2006, sub-paragraph (2) applies as if the reference to a registered pension scheme were a reference to an exempt approved scheme, as defined in section 592 of ICTA.
- 94 Section 395(2) does not apply in relation to a loan made before 26 July 1989, and, for the purposes of that section, section 550 of ITEPA 2003 (which defines “employee benefit trust” and is applied for the purposes of section 395 by section 395(6)) has effect as if section 550 of ITEPA 2003 referred to that day instead of 13 March 1989.

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Interest: loans for interests in employee-controlled companies

- 95 (1) In relation to a loan used before 6 April 1990 in one or more of the ways specified in section 396(2)—
- (a) section 396 applies as if—
 - (i) the reference in subsection (3) to full-time employees included a reference to full-time employees' spouses,
 - (ii) the references in subsection (4) to an individual included a reference to an individual's spouse, unless the individual and the individual's spouse are both full-time employees of the company within the meaning of section 396(5), and
 - (b) section 397(4) applies as if references to the individual included references to the individual's spouse.
- (2) If a loan within section 396(2)(b) was made on or after that date, interest on the loan is eligible for relief under section 383 only if interest on the original loan would have been allowable under section 353 of ICTA after that date.

Interest relief: film partnerships

- 96 Section 399(4) (restriction on relief for interest on loans for purchasing interest in some film partnerships) only applies if the interest accrued on or after 10 March 2006.

Interest: loans for investing in co-operatives

- 97 Section 401 applies in relation to a loan used in one or more of the ways specified in subsection (2)(a) or (b) of that section only if the loan was made after 10 March 1981, but subsection (2)(c) of that section applies whenever the original loan was made.

Gift aid: gifts of money for relief in poor countries

- 98 Despite the amendments made by this Act to section 25 of FA 1990, that section continues to apply for the purposes of section 48 of FA 1998 (gifts of money for relief in poor countries) as if those amendments had not been made.

Gift aid: restrictions on associated benefits

- 99 (1) This paragraph applies if—
- (a) a gift is made on or after 6 April 2007, and
 - (b) a benefit associated with the gift is received before that date or relates (wholly or partly) to a period falling before that date.
- (2) Step 2 of the calculation in section 419(8) is to be read as if the words “(and neither condition C nor condition D is met in relation to it)” were omitted.

Gift aid: election to carry back relief

- 100 (1) This paragraph applies if in the tax year 2007-08 an individual makes a gift to a charity that is a qualifying donation for the purposes of Chapter 2 of Part 8.
- (2) Section 426 has effect with the substitution for subsections (2) and (3) of—

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“(2) The condition is that in year P the grossed up amount of the gift would, if made in year P, be payable out of profits or gains brought into charge to income tax or capital gains tax.

(3) If an election is made, section 25(6) to (9A) of FA 1990 have effect in relation to the individual as if the gift were a qualifying donation (within the meaning of section 25 of FA 1990) made in year P.”

(3) Section 426 has effect with the omission of subsections (4) and (5).

Qualifying maintenance payments: maintenance assessments

101 (1) This paragraph applies for the purposes for which, on the day on which this Act comes into force, the amendments to section 347B of ICTA made by paragraph 8(1) and (2) of Schedule 3 to the Child Support, Pensions and Social Security Act 2000 (c. 19) (maintenance assessments superseded by maintenance calculations) do not have effect.

(2) Until a day is appointed for any of those purposes under this paragraph, section 454 and 455 have effect for that purpose as if—

(a) in section 454(7) and section 455(1)(a), (b), (c) and (3) for “calculation” there were substituted “assessment”, and

(b) for section 454(8) there were substituted—

“(8) In this section “maintenance assessment” means a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991.”

(3) The power to appoint a day under this paragraph is exercisable by the Secretary of State by order made by statutory instrument and different days may be appointed for different purposes (including different days for different areas).

PART 10

SPECIAL RULES ABOUT SETTLEMENTS AND TRUSTEES

Trustees' expenses to be set against trustees' trust rate income

102 (1) This paragraph applies if the trustees of a settlement incur an allowable expense (see section 484) in a tax year prior to the tax year 2007-08.

(2) So far as the trustees have not paid the expense, the expense cannot, under Chapter 4 of Part 9, be set against the trustees' trust rate income for any tax year.

(3) So far as the expense is paid by the trustees in a tax year (“the relevant tax year”) after the tax year 2006-07, the expense is treated for the purposes of sections 484(1) and 485(1) as if it were incurred in the relevant tax year.

(4) So far as the expense is paid by the trustees in a tax year prior to the tax year 2007-08, section 485 applies in relation to the expense with the following modifications.

(5) It applies as if for subsection (3) there were substituted—

“(3) Condition A is—

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- (a) that section 686(2AA) of ICTA could not be applied in relation to the allowable expense so as to reduce the trustees' liability to tax for the tax year in which the trustees paid the expense, and
- (b) that was the case only because the trustees' section 686 income for that year was insufficient or they had no section 686 income for that year.

“Section 686 income” means income to which section 686 of ICTA applies.”

(6) It applies as if for subsection (4) there were substituted—

“(4) Condition B is that—

- (a) for no tax year prior to the tax year 2007-08 has the allowable expense been used to reduce the trustees' liability to tax, and
- (b) the allowable expense has not been set against the trustees' trust rate income for a tax year prior to the current tax year as a result of this section.”

Share incentive plans: definition of “applicable period”

- 103 (1) This paragraph applies for the purposes of section 489 if the relevant shares (see subsection (1) of that section) were acquired by the trustees before 11 May 2001.
- (2) That section applies in relation to those shares with the following modifications.
- (3) It applies as if subsection (2) were omitted.
- (4) It applies as if in subsection (3) the words “If any were” were omitted.
- (5) It applies as if in subsection (4)—
- (a) for “If none were” there were substituted “ But if when the trustees acquired the relevant shares none of the shares in the relevant company were readily convertible assets ”, and
 - (b) in paragraph (b) for “any shares in the relevant company” there were substituted “ the relevant shares ”.
- (6) It applies as if in subsection (5) for “(2) to” there were substituted “ (3) and ”.

Discretionary payments: trustees' tax pool

- 104 (1) Section 497 applies with the following modifications in relation to the trustees of a settlement established prior to the tax year 2007-08 if the current tax year is the tax year 2007-08.
- (2) It also so applies if—
- (a) the current tax year is a tax year subsequent to the tax year 2007-08, and
 - (b) the trustees have been UK resident for no tax year prior to the current tax year or the last tax year prior to the current tax year for which they were UK resident is a tax year prior to the tax year 2007-08.
- (3) It applies as if in subsection (1) for Step 1 there were substituted—

“*Step 1* Take the amount of the trustees' final section 687(3) tax pool and deduct from that amount (but not so that it goes below nil) the total of all tax (if any)

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treated under section 687(2)(a) of ICTA as being paid as a result of payments made by the trustees in the tax year 2006-07. “The amount of the trustees' final section 687(3) tax pool” is the total amount—

- (a) available to the trustees under section 687(3) of ICTA for setting against tax assessable on them under section 687(2)(b) of that Act for the tax year 2006-07, or
 - (b) which would have been so available had tax been so assessable.”
- (4) It applies as if subsections (2) and (3) were omitted.

PART 11

SPECIAL RULES ABOUT CHARITABLE TRUSTS ETC

Transactions with substantial donors

- 105 Section 543(1)(g) and (h) and sections 549 to 557 (non-charitable expenditure: transactions with substantial donors) do not have effect in relation to—
- (a) a transaction occurring before 22 March 2006, or
 - (b) a transaction entered into in pursuance of a contract made before 22 March 2006 (otherwise than in pursuance of a variation on or after that date).
- 106 For the purposes of section 549 a person may meet the definition of “substantial donor” by reference to gifts made at a time before this Act comes into force.

Non-charitable expenditure

- 107 (1) This paragraph applies if, as a result of sections 562 to 564, an amount of expenditure for the tax year 2007-2008 or any subsequent tax year (“the carry back tax year”) is treated as non-charitable expenditure for the tax year 2005-2006 or any earlier tax year.
- (2) The amount of relief or exemption to be disallowed in respect of the tax year 2005-2006 or any earlier tax year is not to exceed the amount which would have been disallowed in respect of that tax year if—
- (a) sections 562 to 564 had not applied in relation to the carry back tax year, and
 - (b) the amount of expenditure for the carry back tax year to be treated as non-charitable expenditure for an earlier tax year had instead been calculated in accordance with the provisions mentioned in sub-paragraph (3).
- (3) Those provisions are—
- (a) sections 505 and 506 of ICTA, and
 - (b) Part 3 of Schedule 20 to that Act,
- as those provisions would have had effect in relation to the carry back tax year if the amendments made to them by section 55 of FA 2006 had not been made and the amendments made to them by this Act had not been made.

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PART 12

MANUFACTURED PAYMENTS AND REPOS

Tax credits: stock lending arrangements and repos

- 108 Sections 592 and 593 do not apply if the qualifying distribution was made before 8 April 1998.
- 109 (1) Section 592(3) does not apply if the qualifying distribution was received by the borrower before the relevant date.
- (2) The relevant date is—
- (a) if the borrower is an individual, 6 November 2003, and
 - (b) if the borrower is not an individual, 17 March 2004.
- 110 (1) Section 593(3) does not apply if the qualifying distribution was received by the interim holder before the relevant date.
- (2) The relevant date is—
- (a) if the interim holder is an individual, 6 November 2003, and
 - (b) if the interim holder is not an individual, 17 March 2004.

Deemed manufactured payments: stock lending arrangements

- 111 Section 596 does not apply if the stock lending arrangement was made before 1 July 1997.
- 112 (1) Section 597 does not apply if the stock lending arrangement was made before 5 December 2005.
- (2) In relation to a stock lending arrangement made on or after 5 December 2005 but before 22 March 2006, section 597 has effect with the omission of subsection (6).
- (3) If—
- (a) a stock lending arrangement was made before 5 December 2005 in respect of any securities (“the original securities”), and
 - (b) on or after that date the lender under the stock lending arrangement transfers securities (“the substituted securities”) in substitution for some or all of the original securities,
- section 597 has effect as if that arrangement were made on the date of the substitution (and the substituted securities were the relevant securities).
- 113 Sections 596(5) and 599 do not apply in relation to any arrangement made before 22 March 2006.

Deemed manufactured payments: repos

- 114 (1) Section 602 does not apply if—
- (a) the securities are UK shares or UK securities, and
 - (b) the agreement to sell them was entered into by the original owner before 1 May 1995.
- (2) Section 602 does not apply if—
- (a) the securities are overseas securities, and

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- (b) the agreement to sell them was entered into by the original owner before 6 November 1996.
- 115 (1) This paragraph applies if an agreement to sell securities was made before 9 April 2003, for the purpose of determining whether (for the purposes of sections 601 and 602) there is a repo in respect of the securities.
- (2) Section 569 has effect as if for subsection (4) there were substituted—
- “(4) Condition C is that the original owner or a person connected with the original owner—
- (a) is required to buy back the securities by the agreement or a related agreement, or
- (b) exercises an option to buy back the securities which was acquired under the agreement or a related agreement.”
- 116 (1) This paragraph applies if an agreement to sell securities was made before 9 April 2003, for the purpose of determining whether section 602 applies.
- (2) Section 601 applies with these modifications.
- (3) It applies as if in subsection (1)(c) for “the first or second set of relevant conditions” there were substituted “ subsection (2) ”.
- (4) It applies as if in subsection (2) for “This is the first set of relevant conditions” there were substituted “ These are the conditions ”.
- (5) It applies as if subsection (3) were omitted.
- 117 (1) This paragraph applies if—
- (a) an agreement to sell securities was made before 27 June 2006,
- (b) the person from whom the securities are to be repurchased (“A”) is not the person to whom the original owner agreed to sell the securities, and
- (c) A did not become the person from whom the securities are to be repurchased in consequence of an agreement made on or after 27 June 2006.
- (2) Section 602 has effect with the omission of subsections (3) and (4).
- 118 (1) This paragraph applies if an agreement to sell securities was made before 9 April 2003.
- (2) Section 605 has effect with the omission—
- (a) in subsection (1), of the words “or B”, and
- (b) of subsection (3).

Price differences under repos

- 119 Section 607 does not apply if the agreement to sell the securities was entered into before 1 May 1995.
- 120 (1) This paragraph applies if an agreement to sell securities was made before 9 April 2003, for the purpose of determining whether (for the purposes of section 607) there is a repo in respect of the securities.
- (2) Section 569 has effect as if for subsection (4) there were substituted—

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- “(4) Condition C is that the original owner or a person connected with the original owner—
- (a) is required to buy back the securities by the agreement or a related agreement, or
 - (b) is required to buy back the securities under an obligation imposed as a result of the exercise of an option acquired under the agreement or a related agreement.”
- 121 (1) This paragraph applies if section 607 applies and the agreement to sell the securities was made before 9 April 2003.
- (2) That section has effect with the omission of subsections (6) and (7).
- 122 (1) This paragraph applies if the agreement to sell the securities to the interim holder was made before 9 April 2003.
- (2) Section 608(3) has effect as if for “benefits and risks” there were substituted “benefits or risks”.
- 123 (1) This paragraph applies if an agreement to sell securities was made before 9 April 2003.
- (2) Section 611 applies with these modifications.
- (3) It applies as if in subsection (1) after “modifications” there were inserted “ in a case where there is a sale and repurchase arrangement in respect of securities ”.
- (4) It applies as if after subsection (1) there were inserted—
- “(1A) For the purposes of subsection (1) there is a sale and repurchase arrangement in respect of securities if—
- (a) a person (“the original owner”) has sold the securities to another person under an agreement,
 - (b) the securities are UK shares, UK securities or overseas securities, and
 - (c) the original owner or a person connected with the original owner—
 - (i) is required to buy back the securities by the agreement or a related agreement, or
 - (ii) acquires, under the agreement or a related agreement, an option to buy back the securities.
- (1B) Section 570 (meaning of “buying back” securities etc) applies in the context of subsection (1A) as it applies in the context of a repo.”

Powers to modify repo provisions

- 124 (1) This paragraph applies if an agreement to sell securities was made before 9 April 2003, for the purpose of determining whether (for the purposes of section 612) there is a repo in respect of the securities.
- (2) This paragraph also applies if an agreement to sell securities was made before 9 April 2003, for the purpose of determining whether (for the purposes of section 613) the case involves redemption arrangements.
- (3) Section 569 applies with these modifications.

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(4) It applies as if for subsection (2) there were substituted—

“(2) Condition A is that a person (“the original owner”) has sold the securities to another person (“the interim owner”) under an agreement.”

(5) It applies as if for subsection (4) there were substituted—

“(4) Condition C is that the original owner or a person connected with the original owner—

- (a) is required to buy back the securities by the agreement or a related agreement, or
- (b) acquires, under the agreement or a related agreement, an option to buy back the securities.”

PART 13

ACCRUED INCOME PROFITS

Sale and repurchase arrangements

- 125 (1) Section 655 applies only if—
- (a) in the case of overseas securities, the agreement to sell the securities mentioned in section 654(2) is entered into after 5 November 1996, and
 - (b) in any other case, the agreement to sell the securities so mentioned is entered into after 30 April 1995.
- (2) In sub-paragraph (1) “overseas securities” has the same meaning as in Part 11 (see section 567).
- 126 (1) This paragraph applies if the agreement to sell the securities mentioned in section 654(2) was made before 9 April 2003.
- (2) Section 655 has effect with the omission of subsection (2).
- (3) For the purpose of determining whether (for the purposes of section 655) there is a sale and repurchase arrangement in respect of the securities, section 654(2) has effect with the omission of paragraph (b).
- (4) Sub-paragraph (5) applies—
- (a) for the purpose of determining whether (for the purposes of section 656) there is a sale and repurchase arrangement in respect of the securities, and
 - (b) for the purpose of determining whether (for the purposes of section 657) the case involves redemption arrangements.
- (5) Section 654(2) has effect with the substitution for paragraphs (b) and (c) of “or
- (b) T or a person connected with T acquires, under the agreement or a related agreement, an option to buy back the securities.”

Successive transfers with unrealised interest in default

- 127 Section 661 does not apply if the transferor's acquisition was before 28 February 1986.

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Unrealised interest received by transferee after transfer within Chapter 2 of Part 12

- 128 If the transfer of securities within section 681(1)(a) occurred before 19 March 1986, section 681(1) has effect with the omission of paragraph (b).

PART 14

TAX AVOIDANCE

Transactions in securities: general

- 129 (1) Despite anything in this Act, Chapter 1 of Part 17 of ICTA (cancellation of tax advantages from certain transactions in securities) continues to apply so far as required for the purposes of notices under section 703(3) of that Act requiring adjustments to be made affecting tax years before the tax year 2007-08; and a counteraction notice under Chapter 1 of Part 13 (transactions in securities) may not require such an adjustment to be made.
- (2) Subject to that, Chapter 1 of Part 13 applies—
- (a) whether or not the transaction or transactions, in consequence of which, or of the combined effect of which, the tax advantage has been or will be obtained, occur on or after 6 April 2007, and
 - (b) whether or not the tax year to which that advantage relates (“the tax advantage year”) is a year before the tax year 2007-08,
- but see section 698(5) (under which no assessments may be made as a result of a counteraction notice later than 6 years after the tax advantage year).
- (3) This paragraph is to be interpreted as if it were part of Chapter 1 of Part 13.

Transactions in securities: meaning of relevant companies for the purposes of sections 689 and 690

- 130 (1) In its application to a transaction in securities that took place before 29 April 1996 or two or more transactions in securities the first of which took place before that date, section 691(1)(b)(i) (meaning of “relevant company”) applies with the substitution for the words “listed in the Official List of” of the words “authorised to be dealt in on”.
- (2) In its application to a transaction in securities that took place before 1 January 1997 or two or more transactions in securities the first of which took place before that date, section 691(1) applies as if the companies referred to in paragraph (b) included companies none of whose shares or stocks are dealt in on the Unlisted Securities Market regularly or from time to time.
- (3) In this paragraph “companies” and “transaction in securities” have the same meaning as in Chapter 1 of Part 13 (see section 713).

Transactions in securities: statement of case by tribunal for opinion of High Court or Court of Session

- 131 If a tribunal has made a determination under section 705(3) of ICTA (determination on rehearing of appeal against notice under section 703 of ICTA) within 30 days before 6 April 2007, the appellant or an officer of Revenue and Customs may

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require the tribunal to state and sign a case under section 707(2) of this Act, despite not having declared dissatisfaction with the determination.

Transactions in securities: appeals to House of Lords

- 132 (1) This paragraph applies until paragraph 47 of Schedule 9 to the Constitutional Reform Act 2005 (c. 4) comes into force.
- (2) Section 710 has effect until that time as if—
- (a) references in subsections (1), (2) and (4) to the Supreme Court were references to the House of Lords, and
 - (b) in subsection (3) the words “unless leave has been given under and in accordance with section 1 of the Administration of Justice (Appeals) Act 1934” were substituted for the words “except with the leave of the Court of Appeal or the Supreme Court”.
- (3) Section 711(4) has effect until that time as if the reference to the Supreme Court were a reference to the House of Lords.

Transfers of assets abroad: non-transferors receiving benefit- exclusion of income arising before 10 March 1981

- 133 (1) Section 732 (non-transferors receiving a benefit as a result of relevant transactions) applies whenever the relevant transfer referred to in that section took place.
- (2) But the relevant income referred to in section 733(1) (by reference to which the amount of income treated as arising under section 732 is determined) does not include income that arose before 10 March 1981.

Transfers of assets abroad: whether trustees are “persons abroad”

- 134 (1) This paragraph deals with whether section 475 (residence of trustees) applies in determining if the single person mentioned in section 474 is a person abroad (as defined in section 718) for the purposes of sections 727 to 730 (charge where individuals receive capital sums as a result of transfers of assets abroad etc) (and accordingly whether section 718(2)(b) applies for those purposes).
- (2) Section 475 does not apply for the purposes of sections 727 to 730 in relation to income payable before 15 June 1989.
- (3) Section 475 does not apply for the purposes of sections 727 to 730 in relation to income payable on or after 15 June 1989 if—
- (a) the individual received or became entitled to receive the capital sum mentioned in section 729(1) before that date, and
 - (b) the capital sum was wholly repaid or the right to it waived before 1 October 1989.
- (4) In sub-paragraph (3) “capital sum” has the meaning given in section 729, and subsection (4) of that section applies for the purposes of that sub-paragraph as it applies for the purposes of section 729(1).
- 135 (1) Sub-paragraph (2) deals with whether section 474 (trustees of settlement to be treated as a single and distinct person) and section 475 (residence of trustees) apply for the purposes of sections 731 to 735 (charge where benefit received) (and accordingly whether section 718(2)(b) applies for those purposes).

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- (2) Sections 474 and 475 do not apply for the purposes of sections 731 to 735 in relation to benefits received before 15 June 1989.
- (3) Sub-paragraphs (4) and (5) apply for the purposes of section 733 (income charged under section 731) in finding the amount of income treated as arising under section 732(2) in respect of benefits received on or after 15 June 1989.
- (4) In determining the relevant income of an earlier tax year for the purposes of section 733(1) (see Step 4), income that arose to the trustees of a settlement before 6 April 1989 is treated as arising to persons abroad if one or more of the trustees were resident outside the United Kingdom, even though one or more were not so resident.
- (5) But sub-paragraph (4) does not apply if the trustees have been charged to tax on that income.

Transfers of assets abroad: whether personal representatives are “persons abroad”

- 136
- (1) This paragraph deals with whether section 834 (residence of personal representatives) applies in determining if personal representatives are persons abroad (as defined in section 718) for the purposes of sections 727 to 730 (charge where individuals receive capital sums as a result of transfers of assets abroad etc) (and accordingly whether section 718(2)(c) applies for those purposes).
 - (2) Section 834 does not apply for the purposes of sections 727 to 730 in relation to income payable before 15 June 1989.
 - (3) Section 834 does not apply for the purposes of sections 727 to 730 in relation to income payable on or after 15 June 1989 if—
 - (a) the individual received or became entitled to receive the capital sum mentioned in section 729(1) before that date, and
 - (b) the capital sum was wholly repaid or the right to it waived before 1 October 1989.
 - (4) In sub-paragraph (3) “capital sum” has the meaning given in section 729, and subsection (4) of that section applies for the purposes of that sub-paragraph as it applies for the purposes of section 729(1).
- 137
- (1) Sub-paragraph (2) deals with whether section 834 (residence of personal representatives) applies for the purposes of sections 731 to 735 (charge where individuals receive a benefit as a result of transfers of assets abroad etc) (and accordingly whether section 718(2)(c) applies for those purposes).
 - (2) Section 834 does not apply for the purposes of sections 731 to 735 in relation to benefits received before 15 June 1989.
 - (3) Sub-paragraphs (4) and (5) apply for the purposes of section 733 (income charged under section 731) in finding the amount of income treated as arising under section 732(2) in respect of benefits received on or after 15 June 1989.
 - (4) In determining the relevant income of an earlier tax year for the purposes of section 733(1) (see Step 4), income that arose to personal representatives before 6 April 1989 is treated as arising to persons abroad if one or more of them were resident outside the United Kingdom, even though one or more were not so resident.
 - (5) But sub-paragraph (4) does not apply if the personal representatives have been charged to tax on that income.

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Transfers of assets abroad: company residence for transfers between 20 March 1990 and 29 November 1993

- 138 (1) In relation to transfers and associated operations on or after 20 March 1990 and before 30 November 1993, a body corporate regarded as resident in a territory outside the United Kingdom for the purposes of any double taxation arrangements is treated as if it were resident outside the United Kingdom for the purposes of Chapter 2 of Part 13 (transfer of assets abroad).
- (2) In this paragraph “transfers” and “associated operations” have the same meaning as in Chapter 2 of Part 13 (see sections 716 and 719 respectively).

Transfers of assets abroad: information powers concerning transfers between 20 March 1990 and 29 November 1993 involving companies

- 139 (1) So far as section 749(6) (restrictions on information to be provided under section 748) applies for the purposes of section 749(2) or (3), it applies in relation to transfers and associated operations on or after 20 March 1990 and before 30 November 1993 with the modification specified in sub-paragraph (2).
- (2) The modification is that the reference to bodies corporate resident outside the United Kingdom includes a reference to bodies corporate regarded as resident in a territory outside the United Kingdom for the purposes of any double taxation arrangements.

Transfers of assets abroad: income arising before 26 November 1996

- 140 Sections 721(5)(b) and (c) and 728(3)(b) and (c) do not apply if the income arose before 26 November 1996.

Transfers of assets abroad: meaning of “associated operation” and consideration of associated operations alone

- 141 (1) In relation to any time before 5 December 2005, the reference in section 716(1)(b) (meaning of “relevant transfer”) to income which becomes payable to a person abroad does not include income that becomes so payable just as a result of one or more associated operations.
- (2) In relation to any time before 5 December 2005, section 719 (meaning of “associated operation”) applies as if subsection (2) were omitted.
- (3) In relation to any time before 5 December 2005, the reference in section 721(2) (individuals with power to enjoy income as a result of relevant transactions) to income which an individual has power to enjoy does not include income which the individual has power to enjoy just as a result of one or more associated operations.
- (4) In relation to any time before 5 December 2005, the reference in section 728(1)(a) (individuals receiving capital sums as a result of relevant transactions) to income which has become the income of a person abroad does not include income that has become such income just as a result of one or more associated operations.
- (5) In this paragraph—
- (a) “associated operation” has the meaning given in section 719, and
 - (b) references to power to enjoy income are to be read in accordance with section 722 (when an individual has power to enjoy income of a person abroad).

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Individuals in partnership: recovery of excess relief

- 142 In section 792(1)—
- (a) the reference to the claiming of relief includes a reference to the claiming of relief as mentioned in section 74(1)(a) and (b) of FA 2005, and
 - (b) the reference to sections 104, 107 and 110 includes a reference to section 117 of ICTA (including as applied by section 118ZB of that Act) and section 118ZE of that Act.
- 143 (1) The losses covered by section 794(1) and (2) in relation to a trade include losses within section 74(5) of FA 2005 made in the trade.
- (2) The income covered by section 794(3) includes amounts treated as received as a result of the application of section 74 of FA 2005.
- (3) Sub-paragraph (4) applies for the purposes of section 794(5) if, as a result of paragraph 142(b), the relevant restriction provision would be section 117 of ICTA (including as applied by section 118ZB of that Act) or section 118ZE of that Act.
- (4) The relevant restriction provision is instead taken to be—
- (a) in the case of section 117 of ICTA (other than as applied by section 118ZB of that Act), section 104,
 - (b) in the case of section 117 of ICTA (as applied by section 118ZB of that Act), section 107, and
 - (c) in the case of section 118ZE of ICTA, section 110.
- (5) In section 794(6) the reference to subsection (2)(b) includes a reference to section 74(11)(b) of FA 2005.

Individuals claiming relief for film-related trading losses

- 144 (1) The claims covered by section 797(1)(a) include claims within section 119(1)(a) of FA 2004.
- (2) For the purposes of section 797—
- (a) a “relevant disposal” does not include a disposal which was made before 10 December 2003, and
 - (b) an event occurring before the tax year 2007-08 is an “exit event” if (and only if) it is an “exit event” for the purposes of section 119 of FA 2004.
- 145 (1) The losses covered by section 800(3)(a) include losses in relation to which a claim is made as mentioned in section 121(1)(a) or (b) of FA 2004.
- (2) The income covered by section 800(5) includes amounts treated as received as a result of the application of section 74 of FA 2005.
- (3) The losses covered by section 800(6) in relation to a trade include losses within section 121(1A)(b) of FA 2004 made in the trade.
- (4) In section 800(9) the reference to the making of a claim includes a reference to the making of a claim as mentioned in section 122A(1) of FA 2004.
- 146 In section 801(3) the reference to the making of a claim includes a reference to the making of a claim as mentioned in section 122A(1) of FA 2004.
- 147 (1) In section 802(1) the reference to the making of a claim includes a reference to the making of a claim as mentioned in section 122A(1) of FA 2004.

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- (2) The repeal by this Act of section 122A of FA 2004 (or any provision inserting or amending, or affecting the application of, that section) does not affect the power of the Commissioners for Her Majesty's Revenue and Customs to make regulations under that section having effect before the tax year 2007-08.
- 148 (1) After the commencement of section 802, the Partnerships (Restrictions on Contributions to a Trade) Regulations 2006 (S.I. 2006/1639) have effect as if made under that section.
- (2) The Regulations so have effect subject to the following modifications.
- (3) They have effect as if in regulation 2—
- (a) for the definition of “ICTA” there were substituted—
- ““ITA 2007” means the Income Tax Act 2007;”, and
- (b) for the definition of “relevant individual” there were substituted—
- ““relevant individual” means—
- (a) a limited partner (within the meaning given by section [F6103A] of ITA 2007),
- (b) a member of a limited liability partnership, or
- (c) a non-active partner (within the meaning given by section [F7103B] of ITA 2007),
- where the partnership carries on a trade in which the individual makes a film-related loss (as defined in section 800(2) of ITA 2007) for which the individual makes a claim as mentioned in section 802(1) of that Act;”.
- (4) They have effect as if in regulation 3(a) for “section 120 of the Finance Act 2004” there were substituted “ section 799 of ITA 2007 ”.
- (5) They have effect as if in regulation 4—
- (a) for “contribution to the trade”, wherever occurring, there were substituted “ capital contribution ”,
- (b) for “section 119(2)(b) or (c) of the Finance Act 2004”, wherever occurring, there were substituted “ section 797(2)(b) of ITA 2007 ”, and
- (c) for paragraph (c)(ii) there were substituted—
- “(ii) the amount of income treated as received in accordance with section 797(5) of that Act.”
- (6) See paragraph 35 of this Schedule for provision about the effect of the Partnerships (Restrictions on Contributions to a Trade) Regulations 2005 (S.I. 2005/2017) after the commencement of section 802.

Textual Amendments

- F6** Word in [Sch. 2 para. 148\(3\)\(b\)](#) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 4 paras. 19\(a\)](#), 21
- F7** Word in [Sch. 2 para. 148\(3\)\(b\)](#) substituted (retrospective to 6.4.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 4 paras. 19\(b\)](#), 21

- 149 (1) In section 803 references to chargeable events include events that are chargeable events for the purposes of section 119 of FA 2004.

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- (2) Accordingly, the total amount of income mentioned in section 803(3) is to include any income treated as received as a result of section 119(5)(b) of FA 2004.

Individuals in partnership: exit charge

- 150 (1) The losses covered by section 805(1)(b) include losses in relation to which a claim is made as mentioned in section 126(1)(c) of FA 2004.
- (2) The disposals covered by section 805(2)(a) and (b) do not include disposals made before 10 February 2004.
- 151 (1) In section 806 at Step 4 non-taxable consideration received before 10 February 2004 is excluded.
- (2) In section 806 at Step 5—
- (a) the reference to section 805 includes a reference to section 127 of FA 2004, and
- (b) the reference to chargeable events includes a reference to chargeable events for the purposes of section 127 of FA 2004.
- 152 (1) This paragraph applies for the purposes of sections 805 to 807 if the individual carried on the trade at any time before 26 March 2004.
- (2) Any reference to expenditure incurred in the trade in exploiting the licence does not include expenditure incurred before 10 February 2004.
- 153 The losses covered by section 807(4) include losses in relation to which a claim has been made as mentioned in section 128(2)(a) or (b) of FA 2004.

PART 15

DEDUCTION OF INCOME TAX AT SOURCE

Deduction by deposit-takers: discretionary or accumulation settlements

- 154 (1) A deposit with a deposit-taker which meets the settlement condition in section 856(6) is not a relevant investment for the purposes of Chapter 2 of Part 15 if conditions A and B are met in relation to the deposit.
- (2) Condition A is that the deposit was made before 6 April 1995.
- (3) Condition B is that neither an officer of Revenue and Customs nor any trustee of the settlement has notified the deposit-taker that the deposit meets the settlement condition in section 856(6).
- 155 (1) A notification under paragraph 154(3) given by a trustee must be in the form provided by the Commissioners for Her Majesty's Revenue and Customs.
- (2) A deposit-taker is entitled not to deduct a sum representing income tax under section 851 from a payment of interest on a deposit covered by a notification under paragraph 154(3) if sub-paragraph (3) applies to the payment.
- (3) This sub-paragraph applies to a payment if—
- (a) it is made within 30 days after the date when the deposit-taker receives the notification, and

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- (b) at the time it is made, it is not reasonably practicable for the deposit-taker to deduct a sum representing income tax from the payment.
- (4) If an officer of Revenue and Customs is satisfied that a deposit covered by a notification under paragraph 154(3) does not meet the settlement condition in section 856(6), the officer must—
 - (a) cancel the notification, and
 - (b) give notice of the cancellation to the deposit-taker concerned.
- (5) An officer of Revenue and Customs may give notice to a trustee of a settlement requiring the trustees to provide—
 - (a) information about any notification given by a trustee under paragraph 154(3), and
 - (b) such information as the officer may reasonably require for the purposes of giving a notification under that paragraph about interest to which the trustees are entitled.
- (6) For the purposes of this paragraph crediting interest counts as paying it.

Deduction by deposit-takers and building societies: declarations of non-UK residence

- 156 (1) Section 858(2)(c) (which requires a declaration of non-UK residence in respect of an individual or individuals beneficially entitled to interest to contain the name and address of the individual or individuals concerned) does not apply to a declaration made before 6 April 2001.
- (2) Section 859(2)(c) (which requires a declaration of non-UK residence in respect of a Scottish partnership beneficially entitled to interest to contain the name and address of the partners) does not apply to a declaration made before 6 April 2001.

Deduction by deposit-takers: qualifying certificates of deposit

- 157 (1) This paragraph applies to a certificate of deposit which was issued by a deposit-taker before 13 March 1984 on terms which provide for interest to be payable on the deposit at any time after 5 April 1985 (whether or not interest is payable on it before that date).
- (2) The certificate of deposit is to be treated as a qualifying certificate of deposit for the purposes of section 865.

Deduction by deposit-takers: qualifying time deposits

- 158 (1) This paragraph applies to a deposit with a deposit-taker which—
 - (a) was made before 6 July 1984, and
 - (b) meets the condition in sub-paragraph (2).
- (2) The condition is that the deposit is made on terms which—
 - (a) do not make provision for the transfer of the right to repayment,
 - (b) prevent partial withdrawals of, or additions to, the deposit, and
 - (c) require the deposit-taker—
 - (i) to repay the sum at the end of a specified period ending after 5 April 1985, or

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- (ii) if interest is payable only when the deposit is repaid, to repay the sum on demand or on notice.
- (3) The deposit is to be treated as a qualifying time deposit for the purposes of section 866.

Deduction by deposit-takers and building societies: saving for regulations

- 159 (1) This paragraph applies to regulations which—
- (a) were made under section 477A(1) to (2A) of ICTA (building societies: regulations for deduction of tax),
 - (b) were in force immediately before the commencement of the repeal of those provisions by this Act, and
 - (c) could have been made under section 17 of TMA 1970 as amended by this Act, if those amendments had been in force at the time the regulations were made.
- (2) The regulations have effect after the commencement of the repeal of section 477A(1) to (2A) of ICTA as if made under section 17 of TMA 1970 as amended by this Act.
- 160 (1) This paragraph applies to regulations about the making of declarations to building societies which—
- (a) were made under section 477A(1) to (2A) of ICTA,
 - (b) were in force immediately before the commencement of the repeal of those provisions by this Act, and
 - (c) could have been made under section 132 or 133 of FA 1999 (electronic communications), if provision about the making of declarations to building societies had precluded to any extent the use of electronic communications for that purpose at the time that the regulations were made.
- (2) The regulations have effect after the commencement of the repeal of section 477A(1) to (2A) of ICTA as if made under section 132 and 133 of FA 1999.
- (3) Regulations under sections 132 and 133 of FA 1999 may make any provision in relation to Chapter 2 of Part 15 of this Act which they could have made if that Chapter had come into force before those sections.

Deduction by deposit-takers, building societies etc: collection of tax

- 161 Chapter 15 of Part 15 has effect for return periods which—
- (a) fall within accounting periods ending on or after 6 April 2007, and
 - (b) end on or after that date.
- 162 (1) This paragraph applies to a payment—
- (a) which is made in an accounting period beginning before 6 April 2007 and ending on or after that date, and
 - (b) which was made before 6 April 2007, but which would have been a payment within section 946 if it had been made on or after that date.
- (2) A payment to which this paragraph applies is to be treated as a payment within section 946 if it is made in a return period which—
- (a) falls within the accounting period,
 - (b) begins before 6 April 2007, and

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(c) ends on or after that date.

- (3) In addition, a payment to which this paragraph applies which was made in an earlier return period which falls within the accounting period is to be treated as a payment within section 946.

Deduction from certain payments of yearly interest: interest paid by banks

- 163 (1) In the case of payments of interest to which this paragraph applies, section 878 (exceptions from duty to deduct: interest paid by banks) has effect with the modification in sub-paragraph (2).
- (2) The modification is the substitution for subsections (1) and (2) of that section of “The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest by a bank carrying on a genuine banking business in the United Kingdom.”
- (3) This paragraph applies to interest payable on an advance made before 29 April 1996.

Deduction from certain payments of yearly interest: interest paid on advances from banks

- 164 (1) In the case of payments of interest to which this paragraph applies, section 879 (exceptions from duty to deduct: interest paid on advances from banks) has effect with the modification in sub-paragraph (2).
- (2) The modification is the substitution for subsections (1) to (4) of that section of “The duty to deduct a sum representing income tax under section 874 does not apply to a payment of interest in the United Kingdom on an advance from a bank carrying on a genuine banking business in the United Kingdom.”
- (3) This paragraph applies to interest payable before 29 April 1996.
- (4) In the case of an institution which—
- (a) immediately before 29 April 1996 was not treated for the purposes of section 349(3)(a) of ICTA as a bank carrying on a genuine banking business in the United Kingdom, and
 - (b) on that day fell within the definition of “bank” given by section 840A of ICTA,
- this paragraph applies to interest payable on an advance made before that day.
- (5) In the case of an institution which—
- (a) immediately before 29 April 1996 was treated for the purposes of section 349(3)(a) of ICTA as a bank carrying on a genuine banking business in the United Kingdom, and
 - (b) on that day did not fall within the definition of “bank” given by section 840A(1) of ICTA,
- this paragraph applies to the interest mentioned in sub-paragraph (6).
- (6) That interest is any interest payable on an advance made before 29 April 1996, if at the time when the interest is paid the person beneficially entitled to the interest is within the charge to corporation tax as respects the interest.

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Deduction from certain UK public revenue dividends

- 165 (1) This paragraph applies if—
- (a) any person holds any gilt-edged securities in relation to which a direction was given under section 50(1) of ICTA at any time before 6 April 1998, and
 - (b) that person at any time before that date made an application under section 50(2) of that Act with respect to those securities.
- (2) The person is treated as having made a deduction at source application under section 895 in respect of the securities which (unless withdrawn) is treated as having effect from that date.
- 166 (1) This paragraph applies in relation to any gilt-edged securities issued before 6 April 1998 which—
- (a) are securities the interest on which, if paid immediately before that date, would have fallen to be paid after deduction of income tax, and
 - (b) are registered within the meaning of section 895 but are not securities in relation to which any direction under section 50 of ICTA was given before that date.
- (2) Chapter 5 of Part 15 has effect as if the appropriate person had made a deduction at source application under section 895 in respect of the securities so as to enable that application to have effect from (and including) that date.
- (3) In sub-paragraph (2) “the appropriate person” means—
- (a) in the case of securities transferred before 6 April 1998 but after the time when the balance was struck for a dividend on them falling due on or after that date, the person who held the securities at the time when the balance was struck,
 - (b) in any other case, the person holding the securities in question immediately before 6 April 1998.

Unauthorised unit trusts: calculation of trustees' income pool

- 167 (1) This paragraph applies for the purposes of section 943.
- (2) The amount of any trustees' income pool as at the start of the tax year 2007-08 is an amount equal to what would have been the trustees' uncredited surplus for the tax year 2007-08 apart from this Act had section 469(5A) to (5D) of ICTA applied in relation to the trustees for the tax year 2007-08.
- 168 (1) This paragraph applies for the purposes of section 943 in its application to any trustees if—
- (a) the current tax year is a tax year subsequent to the tax year 2007-08,
 - (b) subsection (3) of section 943 does not apply, and
 - (c) the last tax year prior to the current tax year for which the trustees were UK resident is a tax year prior to the tax year 2007-08.
- (2) The amount of the trustees' income pool as at the start of the current tax year is an amount equal to what would have been the trustees' uncredited surplus for the tax year 2007-08 apart from this Act had section 469(5A) to (5D) of ICTA applied in relation to the trustees for the tax year 2007-08.

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Non-resident landlords

- 169 (1) Sub-paragraph (2) applies to any references in the Taxation of Income from Land (Non-residents) Regulations 1995 (S.I. 1995/2902) to payments to be made to the Board in respect of tax that is or may become chargeable as the income from a business of a non-resident (as defined in those regulations).
- (2) On and after 6 April 2007 those references are to be read as references to income tax to be paid to the Commissioners for Her Majesty's Revenue and Customs in respect of non-resident landlord income (as defined in section 971(2)).

Interpretation

- 170 Expressions used in this Part of this Schedule and in Part 15 have the same meaning as they have in Part 15.

PART 16

OTHER PROVISIONS

Old references to surtax and standard rate tax

- 171 The repeal by this Act of section 819 of ICTA has no effect in relation to any instrument (of whatever nature), will or codicil made before the date on which this Act comes into force.

Section 820 of ICTA

- 172 Section 820 of ICTA (application of Income Tax Acts from year to year) applies to this Act as if this Act were in force on the day before 6 April 2007.

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Changes to legislation:

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