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SCHEDULES

SCHEDULE 2 **U.K.**

TRANSITIONALS AND SAVINGS

PART 14 **U.K.**

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).

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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 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.

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- (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).
- (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.

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- (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.

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

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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).

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.

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- 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.
- (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 [F¹103A] of ITA 2007),
- (b) a member of a limited liability partnership, or
- (c) a non-active partner (within the meaning given by section [F²103B] 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—

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“(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

- F1** 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
- F2** 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.
- (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.

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