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SCHEDULES

SCHEDULE 2

Section 1325

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 1 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- (a) has been made or done, or has effect as if made or done, under or for the purposes of a superseded enactment so far as it applied for relevant tax purposes, and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is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to the superseded enactment so far as applying for those relevant tax purposes.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) In particular, any reference (express or implied) in this Act, another enactment or an instrument or document to—
- (a) the profits of a UK property business, or
 - (b) similar concepts created by this Act,
- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding concept in a superseded enactment had effect for corporation tax purposes, a reference to that concept so far as applying for corporation tax purposes.
- (3) 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- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes,

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a reference to things done or falling to be done under or for the purposes of the superseded enactment so far as applying for those relevant tax purposes.

- 5 (1) Any reference (express or implied) in any enactment, instrument or document to a superseded enactment in its application for relevant tax purposes is to be read, so far as is required for those relevant tax purposes, as including, in relation to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) In particular, any reference (express or implied) in any enactment, instrument or document to Schedule A or D or the Cases of Schedule D in their application for corporation tax purposes is to be read, so far as is required for corporation tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten concept has effect, as a reference to the rewritten concept.
- (3) Any reference (express or implied) in any enactment, instrument or document to—
- (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 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).
- 7 Paragraphs 4 and 5 apply only so far as the context permits.

General saving for old transitional provisions and savings

- 8 (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.

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

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“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).

- (2) References in this Part to the repeal of a provision include references to its revocation and to its express or implied disapplication for corporation tax purposes.
- (3) References in this Part to tax purposes are not limited to corporation 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 1 April 2009, and
 - (b) because of a change in the law made by this Act, the corporation tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.
- (2) This paragraph also applies if, in the case of any person—
 - (a) a thing is done or an event occurs before 6 April 2009, and
 - (b) because of a change in the law made by this Act, the income tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.
- (3) If the person mentioned in sub-paragraph (1) or (2) so elects, this Act applies with such modifications as may be necessary to secure that the corporation tax or (as the case may be) income tax consequences for the relevant period are the same as they would have been if the change in the law had not been made.
- (4) In sub-paragraphs (1) to (3) “the relevant period” means—
 - (a) for corporation tax purposes, any accounting period beginning before and ending on or after 1 April 2009, and
 - (b) for income tax purposes, any period of account beginning before and ending on or after 6 April 2009.
- (5) 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.
- (6) An election under this paragraph must be made—
 - (a) for corporation tax purposes, not later than two years after the end of the accounting period, and
 - (b) 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.

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PART 3

CHARGE TO CORPORATION TAX ON INCOME

Effect of repeal of section 9(1) of ICTA on relevance of case law

- 11 The repeal by this Act of section 9(1) of ICTA does not affect the relevance for corporation tax purposes of any case law that was relevant for those purposes immediately before the repeal.

PART 4

ACCOUNTING PERIODS

Companies in administration

- 12 Section 10(1)(i) and (j), (2), (3) and (4) apply only in relation to companies that enter administration (under the Insolvency Act 1986 (c. 45) or otherwise) on or after 15 September 2003.

PART 5

COMPANY RESIDENCE: EXCEPTIONS TO SECTION 14

- 13 (1) Subject to sub-paragraph (2), section 14 does not apply to a company if—
- (a) immediately before 15 March 1988 the company was non-UK resident, having ceased to be UK resident under a Treasury consent, and
 - (b) immediately before 1 April 2009 section 66(1) of FA 1988 did not apply to the company because of paragraph 1(1) of Schedule 7 to that Act (certain companies which ceased to be UK resident before 15 March 1988 in pursuance of a Treasury consent).
- (2) If at any time a company falling within sub-paragraph (1)—
- (a) ceases to carry on business,
 - (b) becomes UK resident, or
 - (c) if the Treasury consent was a general consent, ceases to be taxable in a territory outside the United Kingdom,
- section 14 applies in relation to the company after that time.
- 14 (1) Subject to sub-paragraph (2), section 14 does not apply to a company if immediately before 1 April 2009 section 66(1) of FA 1988 did not apply to the company because of paragraph 2(1) of Schedule 7 to that Act (certain companies which ceased to be UK resident on or after 15 March 1988 in pursuance of a Treasury consent).
- (2) If at any time a company falling within sub-paragraph (1)—
- (a) ceases to carry on business, or
 - (b) becomes UK resident,
- section 14 applies in relation to the company after that time.
- 15 (1) In paragraph 13—

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“general consent” means a consent under a section to which sub-paragraph (2) applies which is given generally within the meaning of subsection (4) of the section in question,

“taxable” means liable to tax on income by reason of domicile, residence or place of management,

“Treasury consent” means a consent under a section to which sub-paragraph (2) applies which is given for the purposes of subsection (1)(a) of the section in question.

- (2) This sub-paragraph applies to the following sections (restrictions on the migration etc of companies)—
- section 765 of ICTA,
 - section 482 of the Income and Corporation Taxes Act 1970,
 - section 468 of the Income Tax Act 1952, and
 - section 36 of FA 1951.

PART 6

TRADING INCOME

FI ...

Textual Amendments

- F1** Sch. 2 Pt. 6 paras. 16, 17 and cross-heading omitted (with effect in accordance with Sch. 11 paras. 65-67 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 11 para. 58](#)

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Tenants under taxed leases

- 18 (1) This paragraph relates to the operation of sections 62 to 67 where, in respect of a lease—
- (a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc as rent and assignments for profit of lease granted at an undervalue) for a tax year before the tax year 2005-06 or an accounting period ending before 1 April 2009, or
 - (b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

In this paragraph and paragraphs 19 and 20 a receipt falling within paragraph (a) or (b) is referred to as an “ICTA pre-commencement receipt”.

- (2) For the purposes of sections 62 to 67—
- (a) the lease is treated as a taxed lease, and
 - (b) the ICTA pre-commencement receipt is treated as a taxed receipt.

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- (3) For the purposes of those sections, the “receipt period” of a taxed receipt which is an ICTA pre-commencement receipt is—
- (a) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (b) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (4) For the purposes of sections 62 to 67 the “unreduced amount” of a taxed receipt which is an ICTA pre-commencement receipt is the amount of the ICTA pre-commencement receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.
- (5) Sub-paragraph (6) applies to a taxed receipt which is an ICTA pre-commencement receipt arising as a result of section 34(2) of ICTA (obligation on tenant to carry out work under lease).
- (6) If the obligation to carry out work included the carrying out of work which gave or will give rise to expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.
- 19 (1) This paragraph provides for the application of section 63 as a result of section 65 if—
- (a) a lease is a taxed lease as a result of paragraph 18,
 - (b) another lease is granted out of the taxed lease,
 - (c) in calculating the amount of an ICTA pre-commencement receipt in respect of the other lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (d) as a result of paragraph 18 the amount chargeable on the superior interest is the taxed receipt for the purposes of section 63.
- (2) Sections 63 to 67 apply as follows—
- (a) the ICTA pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 66 and 67,
 - (b) references in those sections to the reduction under section 228 by reference to the taxed receipt are, in relation to the ICTA pre-commencement receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
 - (c) for the purposes of those sections the receipt period of the ICTA pre-commencement receipt is—
 - (i) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (ii) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

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- (3) References in this paragraph and paragraph 20 to a reduction under section 37(2) or (3) of ICTA in an ICTA pre-commencement receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the ICTA pre-commencement receipt before the operation of section 37(2) or (3) of ICTA, and
 - (b) the amount of the receipt after the operation of that subsection,
- so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.
- 20 (1) This paragraph provides for the application of section 63 as a result of section 65 if—
- (a) the taxed lease referred to in those sections is a taxed lease as a result of section 227(4)(c) or (d) (lease taxed under ITTOIA 2005),
 - (b) another lease is granted out of the taxed lease, and
 - (c) in calculating the amount of an ICTA pre-commencement receipt in respect of the other lease, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section.
- (2) Sections 63 to 67 apply as follows—
- (a) the ICTA pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 66 and 67,
 - (b) references in those sections to the reduction under section 228 by reference to the taxed receipt are, in relation to the ICTA pre-commencement receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
 - (c) for the purposes of those sections the receipt period of the ICTA pre-commencement receipt is—
 - (i) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (ii) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

Local enterprise agencies

- 21 To the extent that any function of the Scottish Ministers under section 79 of ICTA was, before 1 April 2009, also exercisable by the Secretary of State for the purposes specified in section 2(2) of the European Communities Act 1972 (c. 68) that function as rewritten in—
- (a) section 83(2) (meaning of “local enterprise agency”),
 - (b) section 84 (approval of local enterprise agencies), or
 - (c) section 85 (supplementary provisions with respect to approvals),
- continues to be also exercisable by the Secretary of State for those purposes.

Expenses connected with patents, designs and trade marks

- 22 (1) This paragraph applies if—

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- (a) fees have been incurred, but not paid, for the purposes of a trade in connection with any of the matters mentioned in section 89 or 90,
 - (b) the fees were incurred in a period of account no part of which falls in an accounting period ending after 31 March 2009, and
 - (c) the fees have not been taken into account in calculating the profits of the trade of any accounting period.
- (2) A deduction is allowed for the fees in calculating the profits of the period of account in which they are paid.

Payments to Export Credits Guarantee Department

- 23 (1) This paragraph applies if—
- (a) a sum is payable, but not paid, by the company carrying on a trade to the Export Credits Guarantee Department under an agreement mentioned in section 91(a) or with a view to entering into such an agreement,
 - (b) the sum was incurred in a period of account no part of which falls in an accounting period ending after 31 March 2009, and
 - (c) the sum has not been taken into account in calculating the profits of the trade of any accounting period.
- (2) A deduction is allowed for the sum in calculating the profits of the period of account in which it is paid.

Reverse premiums

- 24 (1) Sections 98 and 99 do not apply to a reverse premium—
- (a) which was received before 9 March 1999, or
 - (b) to which the recipient was entitled immediately before that date.
- (2) In determining whether a reverse premium was one to which the recipient was entitled immediately before 9 March 1999, no account is to be taken of any arrangements made on or after that date.

Sums recovered under insurance policies etc

- 25 Section 103 does not apply if—
- (a) a company carrying on a trade recovers a sum mentioned in that section, and
 - (b) the sum has been taken into account in calculating the profits of the trade of an accounting period ending before 1 April 2009.

Meaning of “designated educational establishment”

- 26 To the extent that the power of the Welsh Ministers to make regulations under section 84(5) of ICTA was, before 1 April 2009, also exercisable by the Secretary of State for the purposes specified in section 2(2) of the European Communities Act 1972 (c. 68), that power as rewritten in section 106 continues to be also exercisable by the Secretary of State for those purposes.
- 27 The reference in section 106(1)(a) to regulations made for England and Scotland by the Secretary of State includes a reference to regulations made for Great Britain by the Secretary of State before 1 July 1999.

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Dealers in securities etc

- 28 The repeal by this Act of section 473(2B) of ICTA (conversion etc of securities held as circulating capital) does not affect any election made under section 66 of FA 2002 (election to continue postponement of mark to market) before the repeal takes effect.

Purchase or sale of woodlands

- 29 Section 134 does not apply if the purchase mentioned in subsection (2) of that section was made under a contract entered into before 1 May 1963.

Waste disposal

- 30 If the predecessor ceased to carry on the trade carried on by the trader, or ceased to carry on a trade so far as relating to the site, before 21 March 2000, section 142 applies as if—

- (a) “, or a predecessor,” in subsection (1) were omitted, and
- (b) subsections (3) and (4) were omitted.

- 31 If the trade carried on by the trader was started before 1 April 1993, section 144(1) (definition of “waste disposal licence”) applies for the purposes of sections 142 and 143 as if paragraphs (d) and (e) of that subsection were omitted (radioactive waste and nuclear site authorisations or licences).

- 32 Section 144(3) does not apply for the purposes of sections 142 and 143 if the trade was started before 1 April 1993.

Reserves of marketing authorities etc

- 33 In section 153(5) “approved scheme or arrangement” includes a scheme or arrangement—

- (a) approved by the National Assembly for Wales, or
- (b) made with the National Assembly for Wales,

before 26 May 2007.

Adjustment on change of basis

- 34 Chapter 14 of Part 3 applies to a change of basis only if the first day of the first period of account for which the new basis is adopted falls within an accounting period that ends after 31 March 2009.

PART 7

PROPERTY INCOME

Lease premiums

- 35 Section 217 does not apply in relation to a lease granted pursuant to a contract entered into before 4 April 1963.

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Lease premiums: sums payable instead of rent

- 36 Section 219 does not apply in relation to a lease granted—
- (a) before 6 April 1963, or
 - (b) pursuant to a contract entered into before 4 April 1963.

Lease premiums: sums payable for surrender of lease

- 37 Section 220 does not apply in relation to a lease granted—
- (a) before 6 April 1963, or
 - (b) pursuant to a contract entered into before 4 April 1963.

Lease premiums: assignments for profit of lease granted at undervalue

- 38 Section 222 does not apply in relation to a lease granted—
- (a) before 6 April 1963, or
 - (b) pursuant to a contract entered into before 4 April 1963.

Lease premiums: pre-commencement receipts under ICTA treated as taxed receipts

- 39 (1) This paragraph relates to the operation of sections 227 to 235 where, in respect of a lease—
- (a) there is a receipt of a Schedule A business or an overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) as a result of section 34 or 35 of ICTA (treatment of premiums etc as rent and assignments for profit of lease granted at an undervalue) for a tax year before the tax year 2005-06 or an accounting period ending before 1 April 2009, or
 - (b) there would be such a receipt, but for the operation of section 37(2) or (3) of ICTA (reductions in certain receipts under section 34 or 35 of ICTA).

In this paragraph and paragraph 40 a receipt falling within paragraph (a) or (b) is referred to as an “ICTA pre-commencement receipt”.

- (2) For the purposes of Chapter 4 of Part 4—
 - (a) the lease is treated as a taxed lease, and
 - (b) the ICTA pre-commencement receipt is treated as a taxed receipt.
- (3) For the purposes of that Chapter, the “receipt period” of a taxed receipt which is an ICTA pre-commencement receipt is—
 - (a) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (b) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.
- (4) For the purposes of that Chapter the “unreduced amount” of a taxed receipt which is an ICTA pre-commencement receipt is the amount of the ICTA pre-commencement receipt as a result of section 34 or 35 of ICTA, before the operation of section 37(2) or (3) of ICTA.

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- (5) Sub-paragraph (6) applies to a taxed receipt which is an ICTA pre-commencement receipt arising as a result of section 34(2) of ICTA (obligation on tenant to carry out work under lease).
- (6) If the obligation to carry out work included the carrying out of work which gave or will give rise to expenditure for which an allowance has been, or may be, made under the enactments relating to capital allowances, the unreduced amount of the taxed receipt is calculated as if the obligation had not included the carrying out of that work.

Lease premiums: taking account of reductions under section 37(2) or (3) of ICTA

- 40 (1) This paragraph applies if—
- (a) in calculating the amount of an ICTA pre-commencement receipt, there is a reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (b) as a result of paragraph 39(1) and (2) or section 227(4)(c) or (d) (lease taxed under ITTOIA 2005) the amount chargeable on the superior interest is the taxed receipt for the purposes of Chapter 4 of Part 4.
- (2) References to a reduction under section 37(2) or (3) of ICTA in an ICTA pre-commencement receipt by reference to the amount chargeable on the superior interest are to the difference between—
- (a) the amount of the ICTA pre-commencement receipt before the operation of section 37(2) or (3) of ICTA, and
 - (b) the amount of the receipt after the operation of that subsection,
- so far as attributable to the amount chargeable on the superior interest for the purposes of section 37 of ICTA.
- (3) In sections 230(5)(a) (meaning of “unused amount”) and 235(3)(a) (limit on reductions and deductions) references to reductions under section 288 of ITTOIA 2005 by reference to the taxed receipt include references to reductions under section 37(2) or (3) of ICTA in ICTA pre-commencement receipts by reference to the amount chargeable on the superior interest.
- (4) Sections 232 to 234 apply as follows—
- (a) the ICTA pre-commencement receipt is treated as if it were a lease premium receipt for the purposes of sections 233 and 234,
 - (b) references in those sections to the reduction under section 228 by reference to the taxed receipt are, in relation to the ICTA pre-commencement receipt, to the reduction under section 37(2) or (3) of ICTA by reference to the amount chargeable on the superior interest, and
 - (c) for the purposes of those sections the receipt period of the ICTA pre-commencement receipt is—
 - (i) in the case of an ICTA pre-commencement receipt as a result of section 34 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease, and
 - (ii) in the case of an ICTA pre-commencement receipt as a result of section 35 of ICTA, the period treated in calculating the amount of the receipt as being the duration of the lease remaining at the date of the assignment.

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Lease premiums: taking account of deductions for rent as a result of section 37(4) or 87(2) of ICTA

- 41 (1) Sub-paragraph (2) applies if—
- (a) in calculating the profits of a trade, profession or vocation for a tax year before the tax year 2005-06 or an accounting period ending before 1 April 2009, a person is treated as paying rent under section 87(2) of ICTA by reference to the amount chargeable for the purposes of that section, and
 - (b) as a result of paragraph 39(1) and (2) or section 227(4)(c) or (d) (lease taxed under ITTOIA 2005) the amount chargeable is the taxed receipt for the purposes of Chapter 4 of Part 4.
- (2) References in sections 230(5)(b) and 235(3)(c) to the deductions allowed for expenses under section 63 by reference to the taxed receipt include references to the deductions allowed in calculating the profits of the trade, profession or vocation for the rent that the person is treated as paying under section 87(2) of ICTA by reference to the amount chargeable.
- (3) Sub-paragraph (4) applies if—
- (a) in calculating the profits of a Schedule A business or an overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) for a tax year before the tax year 2005-06 or an accounting period ending before 1 April 2009, a person is treated as paying rent as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest for the purposes of that section, and
 - (b) as a result of paragraph 39(1) and (2) or section 227(4)(c) or (d) (lease taxed under ITTOIA 2005) the amount chargeable on the superior interest is the taxed receipt for the purposes of Chapter 4 of Part 4.
- (4) References in sections 230(5)(c) and 235(3)(b) to the deductions allowed for expenses under section 292 of ITTOIA 2005 by reference to the taxed receipt include references to the deductions allowed in calculating the profits of the Schedule A business or overseas property business (within the meaning of section 65A(4) or 70A(4) of ICTA) for the rent that the person is treated as paying as a result of section 37(4) of ICTA by reference to the amount chargeable on the superior interest.

Lease premiums: time limits for claims for repayment of tax

- 42 (1) Until the Treasury by order appoints a day under this paragraph—
- (a) section 238 has effect as if “ 6 years ” were substituted for “4 years” in subsection (3) of that section, and
 - (b) section 239 has effect as if “ 6 years ” were substituted for “4 years” in subsection (3) of that section.
- (2) An order under this paragraph—
- (a) may appoint different days for different purposes, and
 - (b) may include transitional provision and savings.

Lease premiums: rules for determining effective duration of lease

- 43 (1) In relation to a lease granted after 24 August 1971 and before 1 April 2009, section 243 applies with the following modifications.
- (2) In subsection (1) for Rule 1 substitute—

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“*Rule 1:* A lease is not to be treated as having been granted for a term longer than one ending on a date before the end of the term for which the lease was granted if—

- (a) the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond that date, and
- (b) the premium was not substantially greater than it would have been had the term been one ending on that date.”

(3) Omit subsection (3).

44 The amendments made by paragraph 626 of Schedule 1 (amendments of section 303 of ITTOIA 2005, which provides rules for determining the effective duration of a lease) do not have effect in relation to leases granted before 1 April 2009.

45 (1) In relation to a lease granted after 12 June 1969 and before 25 August 1971, for sections 243 and 244 substitute—

“243 Rules for determining effective duration of lease

(1) The following rules apply for determining the effective duration of a lease for the purposes of this Chapter.

Rule 1: Where the terms of a lease include provision for the determination of the lease by notice given by the landlord, the lease is not to be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice so given.

Rule 2: A lease is not to be treated as having been granted for a term longer than one ending on a date before the end of the term for which the lease was granted, if the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond that date.

Rule 3: Where the terms of the lease include provision for the extension of the lease beyond a given date by notice given by the tenant, account may be taken of any circumstances making it likely that the lease will be so extended.

(2) Rule 2 applies by reference to the facts known or ascertainable at the time of the grant of the lease.

(3) In applying the rules, it is assumed that all parties concerned, whatever their relationship, act as if they were at arm's length.

(4) In this section, in relation to Scotland, “term”, where referring to the duration of a lease, means period.”

(2) This paragraph does not apply if the determination is for the purposes of section 221 (sums payable for variation or waiver of terms of lease).

46 (1) In relation to a lease granted before 13 June 1969, for sections 243 to 245 substitute—

“243 Rules for determining effective duration of lease

(1) The following rules apply for determining the effective duration of a lease for the purposes of this Chapter.

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Rule 1: Where the effective duration of a lease is being determined after the date on which the lease has for any reason come to an end, the duration is taken to have extended from its commencement to that date.

Rule 2: Where the terms of the lease include provision for the determination of the lease by notice given either by the landlord or by the tenant, the lease is not to be treated as granted for a term longer than one ending at the earliest date on which it could be determined by notice.

Rule 3: A lease is not to be treated as having been granted for a term longer than one ending on a date before the end of the term for which the lease was granted, if the terms of the lease or any other circumstances make it unlikely that the lease will continue beyond that date.

(2) Rules 2 and 3 are subject to Rule 1.

(3) Rules 2 and 3 apply in accordance with circumstances prevailing at the time of the determination.

(4) In this section, in relation to Scotland, “term”, where referring to the duration of a lease, means period.”

(2) This paragraph does not apply if the determination is for the purposes of section 221 (sums payable for variation or waiver of terms of lease).

47 The amendments made by paragraphs 498 and 506 of Schedule 1 (amendments of sections 291(3)(a) and 393J(3)(a) of CAA 2001) do not have effect in relation to leases granted before 1 April 2009.

Lease premiums: meaning of “premium”

48 (1) In relation to a lease granted after 12 June 1969 and before 25 August 1971 sections 246 and 247 have effect with the following modifications.

(2) Section 246 has effect with the omission of subsections (4) and (5).

(3) Section 247 has effect with the omission of—

- (a) the words “or to a person connected with such a person” in subsection (1), and
- (b) subsection (2).

Reverse premiums

49 (1) Section 250 does not apply to a reverse premium—

- (a) which was received before 9 March 1999, or
- (b) to which the recipient was entitled immediately before that date.

(2) In determining whether a reverse premium was one to which the recipient was entitled immediately before 9 March 1999, no account is to be taken of any arrangements made on or after that date.

Deductions for expenditure on energy-saving items

50 Sections 251 to 253 do not apply to expenditure incurred before 8 July 2008.

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Adjustment on change of basis

- 51 (1) Sections 261 and 262 apply to a change of basis taking effect for a period of account which ends after 31 March 2009.
- (2) For this purpose the period of account for which a change of basis takes effect is the first period of account for which the new basis is adopted.

Meaning of “mineral royalties”

- 52 The definition of “mineral royalties” in section 274(2) does not include any rent receivable before 6 April 1970.

PART 8

LOAN RELATIONSHIPS

Interpretation

- 53 Except as provided in this Part of this Schedule, expressions used in this Part of this Schedule and in Part 5 of this Act have the same meaning as in Part 5.

Opening and closing values determined under Schedule 15 to the Finance Act 1996

- 54 So far as immediately before the commencement of this Act any opening value or closing value is to be determined by reference to Schedule 15 to FA 1996 (loan relationships: savings and transitional provisions), the determination of that value is not affected by the repeal by this Act of any provision in that Schedule or any provision affecting such a provision.

References to Part 5 to include Schedule 15 to FA 1996

- 55 Except where the context indicates otherwise, references to Part 5 of this Act in any enactment other than Schedule 15 to FA 1996 include references to that Schedule.

Exemption for interest on tax overpaid for accounting periods ending before 1 July 1999

- 56 No liability to corporation tax arises in respect of interest paid under section 826(1) of ICTA (interest on tax overpaid) if the accounting period mentioned in the paragraph of that section as a result of which it is paid ends before 1 July 1999.

Regulations under section 81 of FA 2002

- 57 The repeal by this Act of any provision in Schedule 23 to FA 2002 (transitional provision) does not affect the power in section 81 of that Act so far as relating to that provision.

Continuity on transfers: transferees becoming party to loan relationship before 9 April 2003

- 58 (1) In determining whether Chapter 4 of Part 5 (continuity on transfers within groups or on reorganisations) applies in the case mentioned in section 336 or 337 where the transferee became party to the loan relationship before 9 April 2003, section 338

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(meaning of company replacing another as party to loan relationship) applies with the following omissions.

- (2) In subsection (1) omit paragraphs (b) and (c).
- (3) In subsection (2) omit “or obligations”.
- (4) Omit subsections (5) and (6).
- (5) This paragraph must be read as if it were in Chapter 4 of Part 5.

Deeply discounted securities held before 1 October 2002

- 59 (1) This sub-paragraph applies if—
- (a) the condition in paragraph 17(1)(c) of Schedule 9 to FA 1996 (connection between issuing company and another company) is met as respects an accounting period beginning on or after 1 October 2002 as a result of the amendments made by paragraph 33 of Schedule 25 to FA 2002, but would not have been met in an accounting period beginning before that date, and
 - (b) the debtor relationship in question was a debtor relationship of the issuing company (within the meaning of section 407) on the first day of the company's first accounting period beginning on or after that date.
- (2) If sub-paragraph (1) applies, section 407 does not apply in relation to that debtor relationship as a result of those amendments.
- (3) This sub-paragraph applies if section 409 applies in a case where—
- (a) the relevant period began before 1 October 2002,
 - (b) as a result of paragraph 18 of Schedule 9 to FA 1996 an amount (“the deferred amount”) was not brought into account by a company for the purposes of Chapter 2 of Part 4 of that Act in respect of a debtor relationship for an accounting period beginning before that date, and
 - (c) the deeply discounted security concerned has not been redeemed before the beginning of the company's first accounting period to which this Act applies.
- (4) If sub-paragraph (3) applies, as regards any accounting period to which this Act applies, section 409(2) applies as if paragraph 18(2) of Schedule 9 to FA 1996, instead of preventing the bringing of amounts into account for any accounting period before that in which the security was redeemed, had provided for the deferred amount to be brought into account for the accounting period in which the security was redeemed rather than for the relevant period.
- (5) In this paragraph—
- “deeply discounted security” has the same meaning as in Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities) (see section 430 of that Act), and
- “the relevant period” has the same meaning as in section 409.
- 60 (1) This paragraph applies if—
- (a) an authorised unit trust or open-ended investment company holds a deeply discounted security on the last day of the unit trust's or company's last accounting period beginning before 1 October 2002 (“the last old day”),
 - (b) the security was not transferred or redeemed on that day,

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- (c) there is an amount which, if the unit trust or company had made a transfer of that security on that day, by selling it for its adjusted closing value—
 - (i) would have been charged under paragraph 1 of Schedule 13 to FA 1996 under Case III or IV of Schedule D, or
 - (ii) would have been eligible for relief from tax on a claim for the purposes of paragraph 2 of Schedule 13 to FA 1996, and
 - (d) that amount has not fallen to be brought into account under paragraph 64(3) of Schedule 25 to FA 2002.
- (2) That amount must be brought into account as a non-trading credit, or (as the case may be) a non-trading debit, for the purposes of Part 5 (loan relationships) for the relevant accounting period.
- (3) The relevant accounting period is the accounting period in which falls the earliest of—
- (a) the first day that falls after the last old day and is a day on which, under the terms on which the security was issued, the holder of the security is entitled to require it to be redeemed,
 - (b) the day on which the security is redeemed, and
 - (c) the day on which the unit trust or company makes a disposal of the security.
- (4) For the purposes of sub-paragraph (1)(c), the “adjusted closing value” of a deeply discounted security held by the unit trust or company on the last old day is the amount which for the purposes of Chapter 2 of Part 4 of FA 1996 was the opening value, as at the first day of the unit trust's or company's first accounting period beginning on or after 1 October 2002, of the unit trust's or company's rights and liabilities under the relationship represented by that security.
- (5) Paragraph 5(7) of Schedule 15 to FA 1996 (determination of opening value where accruals basis of accounting is used) applies for the purposes of sub-paragraph (4) as it applies for the purposes of paragraph 5 of that Schedule, but—
- (a) taking the reference to 1 April 1996 as a reference to the first day of the unit trust's or company's first accounting period beginning on or after 1 October 2002, and
 - (b) applying paragraph 4 of that Schedule (determination of amounts treated as accruing on or after 1 April 1996) (as it had effect immediately before 1 April 2009) for these purposes with the same modification.
- (6) In this paragraph—
- “creditor relationship” has the same meaning as in Part 5,
 - “deeply discounted security” has the same meaning as in that Chapter (see section 430 of that Act),
 - “open-ended investment company” has the same meaning as in section 468A of ICTA,
 - “redeem” means—
 - (a) make a disposal, within the meaning of Chapter 8 of Part 4 of ITTOIA 2005 (profits from deeply discounted securities), except by a transfer within the meaning of that Chapter, or
 - (b) convert as mentioned in section 437(1)(c) of that Act, and
 - “transfer” has the same meaning as in that Chapter.
- (7) In this paragraph “the relevant period” has the same meaning as in section 409.

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Restriction on bringing into account credits resulting from reversal of debits disallowed in a period of account beginning before 1 January 2005

- 61 (1) No credit is to be brought into account for the purposes of Part 5 in respect of the reversal of a debit that was disallowed for tax purposes in a period of account beginning before 1 January 2005—
- (a) because of the assumption required by paragraph 5(1) of Schedule 9 to FA 1996, or
 - (b) because the exceptions in section 74(1)(j) of ICTA did not apply.
- (2) This paragraph does not apply if fair value accounting is used.

Disregard of pre-2005 disallowed debits

- 62 (1) This paragraph applies if in a period of account of a company beginning before 1 January 2005 (“the earlier period”) a debit was disallowed for tax purposes—
- (a) because of the assumption required by paragraph 5(1) of Schedule 9 to FA 1996, or
 - (b) because the exceptions in section 74(1)(j) of ICTA did not apply.
- (2) The debit is ignored in determining the accounting value of an asset of the company at the end of the earlier period for the purposes of section 316 (change of accounting policy involving change of value).

Bringing into account losses on overseas sovereign debt etc

- 63 (1) This paragraph applies if at the end of the last period of account of a company before paragraph 17(1)(b) of Schedule 4 to FA 2005 (which repealed paragraph 9 of Schedule 9 to FA 1996) had effect—
- (a) the company had ceased to be a party to a loan relationship, and
 - (b) the effect of paragraph 9 of Schedule 9 to FA 1996 (restrictions on bringing into account losses on overseas sovereign debt) (or a corresponding earlier enactment) was that part of the loss arising had not been brought into account for tax purposes.
- (2) Despite the repeal by this Act of paragraph 17(3) of Schedule 4 to FA 2005, any debit that, as a result of that paragraph, immediately before its repeal could have been brought into account for the purposes of Chapter 2 of Part 4 of FA 1996 (loan relationships) under paragraph 9(4) or (5) of Schedule 9 to FA 1996 in a subsequent period of account of the company may be brought into account in such a period for the purposes of Part 5 (loan relationships).

Saving for old elections for treating loan relationships with embedded derivatives as two assets

- 64 (1) The repeal by this Act of paragraph 7 of Schedule 6 to F(No.2)A 2005 (loan relationships with embedded derivatives) does not affect—
- (a) any election made under that paragraph immediately before the repeal takes effect, or
 - (b) any election which immediately before the repeal takes effect had effect as if so made as a result of sub-paragraph (8) of that paragraph (elections made under paragraph 28(3) of Schedule 4 to FA 2005).

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- (2) This Act applies to those elections as if they had been made under section 416 (election for application of sections 415 and 585).

*Deeply discounted securities of close companies: discounts
for accounting periods beginning before 1 April 2007*

- 65 (1) This paragraph applies as regards a debtor relationship entered into in pursuance of a contract—
- (a) made before 4 March 2005, and
 - (b) not varied after that date, or not varied until after that date.
- (2) A debit is not allowed or required, as a result of the amendments made by paragraph 3(2) and (4) to (7) of Schedule 8 to F(No.2)A 2005, to be brought into account under Part 5 for an accounting period in respect of any amount of discount in respect of which a debit is so brought into account for any earlier accounting period.
- (3) In sub-paragraph (2) “earlier accounting period” means an accounting period that began before—
- (a) 1 April 2007, or
 - (b) if the contract mentioned in sub-paragraph (1) was varied before that date, the date of variation.
- (4) The references in this paragraph to the variation of a contract do not include references to a variation that does not affect the terms of the debtor relationship in question.

*Repo, stock lending and other transactions before
1 October 2007: disapplication of section 332*

- 66 Section 332 (repo, stock lending and other transactions) does not apply in relation to cases where there is—
- (a) an arrangement to which Chapter 10 of Part 6 would apply if the arrangement had not come into force before 1 October 2007,
 - (b) a stock lending arrangement (within the meaning of section 263B(1) of TCGA 1992), which came into force before that date and under which the lender transfers securities to the borrower otherwise than by way of sale, or
 - (c) any other disposal before that date.

Avoidance relying on continuity of treatment provisions: transactions before 16 May 2008

- 67 Section 347 (disapplication of Chapter 4 of Part 5 where transferor party to avoidance) does not have effect in relation to transactions taking place, or a series of transactions of which the first takes place, before 16 May 2008.

*Disposals for consideration not fully recognised by
accounting practice: disposals before 16 May 2008*

- 68 Section 455 (disposals for consideration not fully recognised by accounting practice) does not have effect in relation to disposals before 16 May 2008.

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5½% Treasury Stock 2008-2012 not redeemed before 6 April 2009

- 69 (1) This paragraph applies if any loan relationship of a company—
- (a) is represented by any 5½% Treasury Stock 2008-2012, and
 - (b) is one to which the company is a party otherwise than in the course of activities that form an integral part of a trade it carries on.
- (2) No amounts fall to be brought into account for the purposes of Part 5 in respect of the loan relationship unless they relate to interest.

References to Companies Act 2006

- 70 Until section 658 of the Companies Act 2006 (c. 46) (rule against limited company acquiring own shares) comes into force, references to that section in sections 421(4) (g)(ii) and 431(7)(b) have effect as if they were references to section 143 of the Companies Act 1985 (c. 6).

PROSPECTIVE

*Prospective repeal of provisions concerning
exchange gains and losses from loan relationships*

F271

Textual Amendments

- F2** Sch. 2 para. 71 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **Sch. 7 paras. 101(2), 105**

PART 9

RELATIONSHIPS TREATED AS LOAN RELATIONSHIPS

*Relevant non-lending relationships: discounts
accruing and profits arising before 16 March 2005*

- 72 (1) None of the following is to be brought into account for the purposes of Part 5 as a result of any of the provisions specified in sub-paragraph (2) or any reference to that provision in any other provision—
- (a) credits in respect of a discount arising from a money debt, so far as the discount accrued before 16 March 2005,
 - (b) credits in respect of profits arising as mentioned in 481(3)(c) or (5)(c) where the related transaction took place before that date,
 - (c) debits in respect of any impairment arising in respect of a discount arising from a money debt, so far as the discount accrued before that date,
 - (d) credits in respect of any reversal of any such impairment, so far as the discount accrued before that date.
- (2) The provisions are—

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- (a) section 480 (relevant non-lending relationships involving discounts),
- (b) section 481(3)(c) and (5) to (8) (application of Part 5 to relevant non-lending loan relationships), and
- (c) section 482(2) (miscellaneous rules about amounts to be brought into account because of Chapter 2 of Part 6).

(3) This paragraph is to be read as if it were in Chapter 2 of Part 6.

[^{F3} Relevant non-lending relationships: discounts on disposals before 22 March 2006

Textual Amendments

F3 Sch. 2 para. 72A inserted (retrospective and with effect in accordance with art. 1(2) of the amending S.I.) by [Corporation Tax Act 2009 \(Amendment\) Order 2010 \(S.I. 2010/614\)](#), arts. 1(1), **3(5)**

72A. (1) Section 480 (relevant non-lending relationships involving discounts) applies with the modifications set out in sub-paragraph (2) if—

- (a) the money debt mentioned in section 480(1) is some or all of the consideration payable for a disposal of property, and
- (b) the disposal is made before 22 March 2006.

(2) The modifications are—

- (a) in section 480(1)(e) for “conditions A and B are met” substitute “the property is neither—
 - (i) an asset representing a loan relationship, nor
 - (ii) a derivative contract”, and
- (b) omit subsections (2) to (4).]

Alternative finance arrangements entered into before [^{F4} certain dates]

Textual Amendments

F4 Words in Sch. 2 Pt. 9 cross-heading substituted (1.4.2009 retrospective) by [Corporation Tax Act 2009 \(Amendment\) Order 2009 \(S.I. 2009/2860\)](#), arts. 1(2), **6(7)(b)**

73 [^{F5}(1) Chapter 6 of Part 6 (alternative finance arrangements) does not apply to purchase and resale arrangements entered into before 6 April 2005.

(1A) That Chapter only applies to deposit arrangements entered into before that date (“pre-6 April 2005 arrangements”) if they are relevant deposit arrangements and then only so far as provided by this paragraph.]

(2) In this paragraph “relevant deposit arrangements” means deposit arrangements under which alternative finance return is payable on or after 6 April 2005.

(3) For the purposes of Part 5 (loan relationships) the loan that is treated under section 509 (application of Part 5: general) as made by or to a company that is party to the pre-6 April 2005 arrangements is a loan made on 6 April 2005 of an amount equal to the notional carrying value of the asset or liability representing the arrangements.

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- (4) For the purposes of sub-paragraph (3) that notional carrying value is the amount that would have been the carrying value of the asset or liability in the accounts of the company (prepared in accordance with generally accepted accounting practice) if a period of account had ended immediately before 6 April 2005.

Textual Amendments

- F5** Sch. 2 para. 73(1)(1A) substituted for Sch. 2 para. 73(1) (1.4.2009 retrospective) by Corporation Tax Act 2009 (Amendment) Order 2009 (S.I. 2009/2860), arts. 1(2), **6(7)(c)**

F6 ...

Textual Amendments

- F6** Sch. 2 Pt. 9 cross-heading omitted (1.4.2009 retrospective) by virtue of Corporation Tax Act 2009 (Amendment) Order 2009 (S.I. 2009/2860), arts. 1(2), **6(7)(d)**

- 74 ^{F7}(1) Chapter 6 of Part 6 (alternative finance arrangements) does not apply to diminishing shared ownership arrangements entered into before 1 April 2006.

(1A) That Chapter only applies to profit share agency arrangements entered into before that date (“pre-1 April 2006 arrangements”) if they are relevant profit share agency arrangements and then only so far as provided by this paragraph.]

(2) In this paragraph “relevant profit share agency arrangements” means profit share agency arrangements under which alternative finance return is payable on or after 1 April 2006.

(3) For the purposes of Part 5 (loan relationships) the loan that is treated under section 509 (application of Part 5: general) as made by or to a company that is party to the pre-1 April 2006 arrangements is a loan made on 1 April 2006 of an amount equal to the notional carrying value of the asset or liability representing the arrangements.

(4) For the purposes of sub-paragraph (3) that notional carrying value is the amount that would have been the carrying value of the asset or liability in the accounts of the company (prepared in accordance with generally accepted accounting practice) if a period of account had ended immediately before 1 April 2006.

Textual Amendments

- F7** Sch. 2 para. 74(1)(1A) substituted for Sch. 2 para. 74(1) (1.4.2009 retrospective) by Corporation Tax Act 2009 (Amendment) Order 2009 (S.I. 2009/2860), arts. 1(2), **6(7)(e)**

F8 ...

Textual Amendments

- F8** Sch. 2 Pt. 9 cross-heading omitted (1.4.2009 retrospective) by virtue of Corporation Tax Act 2009 (Amendment) Order 2009 (S.I. 2009/2860), arts. 1(2), **6(7)(f)**

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- 75 (1) Chapter 6 of Part 6 (alternative finance arrangements) only applies to investment bond arrangements entered into before 1 April 2007 (“pre-1 April 2007 arrangements”) if they are relevant investment bond arrangements and then only so far as provided by this paragraph.
- (2) In this paragraph “relevant investment bond arrangements” means investment bond arrangements under which alternative finance return is payable on or after 1 April 2007.
- (3) For the purposes of Part 5 (loan relationships) the loan that is treated under section 509 (application of Part 5: general) as made by or to a company that is party to the pre-1 April 2007 arrangements is a loan made on 1 April 2007 of an amount equal to the notional carrying value of the asset or liability representing the arrangements.
- (4) For the purposes of sub-paragraph (3) that notional carrying value is the amount that would have been the carrying value of the asset or liability in the accounts of the company (prepared in accordance with generally accepted accounting practice) if a period of account had ended immediately before 1 April 2007.
- [^{F9}(5) So far as section 519(2) has effect for income tax or capital gains tax purposes in relation to the disposal after 6 April 2007 of investment bond arrangements (whenever entered into), it is treated as always having had effect.]

Textual Amendments

- F9** Sch. 2 para. 75(5) inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 8 para. 312 (with Sch. 9 paras. 1-9, 22)

Shares with guaranteed returns: redeemable shares where public issue before 22 March 2006

- 76 In relation to any case where the public issue (within the meaning of section 530(4) and (5)) is before 22 March 2006 for “7 days” in subsections (4)(b) and (5)(a) of section 530 (the redemption return condition: excepted shares) substitute “24 hours”.

Shares with guaranteed returns: income-producing assets for the increasing value condition

- 77 In relation to any time before 16 May 2008, section 527(4) (meaning of “income-producing assets” for the purposes of the increasing value condition) applies with the substitution for paragraph (c) of the following paragraph—
- “(c) any share as respects which the redemption return condition is met or would be met apart from section 529(1)(c) (excepted shares).”.

Repo transactions and stock lending arrangements before 1 October 2007

- 78 (1) Chapter 10 of Part 6 (repos) does not apply in relation to an arrangement which came into force before 1 October 2007.
- (2) The repeal by this Act of paragraph 15 of Schedule 9 to FA 1996 (repo transactions and stock-lending) does not affect its application in relation to cases where there is—
- (a) an arrangement to which Chapter 10 of Part 6 would apply if the arrangement had not come into force before 1 October 2007,

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- (b) a stock lending arrangement (within the meaning of section 263B(1) of TCGA 1992), which came into force before that date and under which the lender transfers securities to the borrower otherwise than by way of sale, or
 - (c) any other disposal before that date.
- (3) But that paragraph applies with the substitution—
- (a) for references to Chapter 2 of Part 4 of FA 1996 of references to Part 5 of this Act, and
 - (b) for the reference in sub-paragraph (5) to section 84 of that Act of a reference to section 304 of this Act.

PART 10

DERIVATIVE CONTRACTS

Interpretation

79 Expressions used in this Part of this Schedule and in Part 7 of this Act have the same meaning as in Part 7.

Extended meaning of reference in section 591(6)(b)

80 The reference in section 591(6)(b) (condition E) to the provisions in section 591(7) includes a reference to paragraphs 82 and 86 of this Schedule.

Disapplication of section 645

81 Section 645 (creditor relationships: embedded derivatives which are options) does not apply to a derivative contract of a company for an accounting period if the asset representing the creditor relationship is an asset in relation to which paragraph 9(2) of Schedule 10 to FA 2004 has effect.

Existing assets representing creditor relationships: options

- 82 (1) This paragraph applies if section 645 would apply to a derivative contract of a company for an accounting period but for the fact that the asset representing the creditor relationship is an asset in relation to which paragraph 9(2) of Schedule 10 to FA 2004 has effect.
- (2) Section 574 (non-trading credits and debits to be brought into account under Part 5) does not apply to the credits and debits which are given in relation to the derivative contract for the accounting period by section 595.
- (3) The asset representing the creditor relationship is treated for corporation tax purposes as not being a qualifying corporate bond.
- (4) For the purposes of corporation tax on chargeable gains, the amount or value of the consideration for any disposal by the company of the asset representing the creditor relationship is reduced by so much of that amount or value as, on a just and reasonable apportionment, relates to interest within sub-paragraph (5).
- (5) Interest is within this sub-paragraph if—

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- (a) it falls to be brought into account under Part 5 of this Act (loan relationships) as accruing to any company at any time, and
 - (b) in consequence of, or of the terms of, the disposal, it is not paid or payable to the company to which it is treated for the purposes of that Part as accruing.
 - (6) For the purposes of corporation tax on chargeable gains, the amount or value of the consideration for any disposal by the company of the asset mentioned in sub-paragraph (4)—
 - (a) is increased by the addition of any relevant exchange losses, and
 - (b) is (after giving effect to any such increase) reduced (but not below nil) by the deduction of any relevant exchange gains.
 - (7) If the amount of the relevant exchange gains falling to be deducted under sub-paragraph (6)(b) exceeds the amount required to reduce the amount or value of the consideration to nil, the excess is treated for the purposes of section 38(1)(c) of TCGA 1992 as incidental costs of the disposal of the asset mentioned in sub-paragraph (4).
- 83 (1) This paragraph applies for the purposes of paragraph 82.
- (2) “Relevant exchange gains” means an amount within sub-paragraph (4) or (5).
 - (3) “Relevant exchange losses” means an amount which would be within sub-paragraph (4) or (5) if references in those sub-paragraphs to exchange gains were read as references to exchange losses.
 - (4) An amount is within this sub-paragraph if it is the amount of any exchange gains in respect of the asset mentioned in paragraph 82(4) which are brought into account under Part 5 of this Act (loan relationships) by the company for an accounting period throughout which the company holds that asset.
 - (5) For any accounting period not within sub-paragraph (4) in which the company holds that asset, an amount is within this sub-paragraph if it is an amount which, on a just and reasonable apportionment, represents so much of the amount of any exchange gains brought into account under that Part in respect of that asset by the company for that period as is referable to the part of the period for which the company holds that asset.
- 84 (1) This paragraph applies if—
- (a) there has been a reorganisation for the purposes of sections 126 to 132 of TCGA 1992, and
 - (b) for the purposes of those sections, the asset mentioned in paragraph 82(4) is treated as the original shares.
- (2) The reference in paragraph 82(4) to the disposal of that asset is a reference to the disposal of the asset which, as a result of the reorganisation, has become the new holding for the purposes of those sections.

Disapplication of section 648

- 85 Section 648 (creditor relationships: embedded derivatives which are exactly tracking contracts for differences) does not apply to a derivative contract of a company for an accounting period if the asset representing the creditor relationship is an asset in relation to which paragraph 11(2) of Schedule 10 to FA 2004 has effect.

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Existing assets representing creditor relationships: contracts for differences

- 86 (1) This paragraph applies if section 648 would apply to a derivative contract of a company for an accounting period but for the fact that the asset representing the creditor relationship is an asset in relation to which paragraph 11(2) of Schedule 10 to FA 2004 has effect.
- (2) Section 574 (non-trading credits and debits to be brought into account under Part 5) does not apply to the credits and debits which are given in relation to the derivative contract for the accounting period by section 595.
- (3) The asset representing the creditor relationship is treated for corporation tax purposes as not being a qualifying corporate bond.
- (4) For the purposes of corporation tax on chargeable gains, the amount or value of the consideration for any disposal by the company of the asset representing the creditor relationship is reduced by so much of that amount or value as, on a just and reasonable apportionment, relates to interest within sub-paragraph (5).
- (5) Interest is within this sub-paragraph if—
- (a) it falls to be brought into account under Part 5 of this Act (loan relationships) as accruing to any company at any time, and
 - (b) in consequence of, or of the terms of, the disposal, it is not paid or payable to the company to which it is treated for the purposes of that Part as accruing.
- 87 (1) This paragraph applies if—
- (a) there has been a reorganisation for the purposes of sections 126 to 132 of TCGA 1992, and
 - (b) for the purposes of those sections, the asset mentioned in paragraph 86(4) is treated as the original shares.
- (2) The reference in paragraph 86(4) to the disposal of that asset is a reference to the disposal of the asset which, as a result of the reorganisation, has become the new holding for the purposes of those sections.

Disapplication of section 658

- 88 (1) Section 658 (chargeable gain or allowable loss treated as accruing) does not apply to a derivative contract of a company for an accounting period if the liability representing the debtor relationship was owed by the company immediately before its first accounting period to begin on or after 1 January 2005.
- (2) If section 658 would apply to a derivative contract for an accounting period but for sub-paragraph (1), section 574 (non-trading credits and debits to be brought into account under Part 5) does not apply to the credits and debits which are given in relation to the derivative contract for the accounting period by section 595.

Disapplication of section 661

- 89 Section 661 (contract which becomes derivative contract) does not apply if the relevant contract became a derivative contract before 30 December 2006.

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Disapplication of section 666

- 90 Section 666 (allowable loss treated as accruing) does not apply to a company if the liability representing the debtor relationship was owed by the company immediately before its first accounting period to begin on or after 1 January 2005.

Contracts which became derivative contracts on 16 March 2005

- 91 (1) This paragraph applies in relation to a company if conditions A, B and C are met in relation to a relevant contract.
- (2) Condition A is that the company was a party to the relevant contract both immediately before and at 3.00pm on 16 March 2005.
- (3) Condition B is that the relevant contract—
- (a) was not a derivative contract immediately before 3.00pm on that date, but
 - (b) has been a derivative contract as from that time.
- (4) Condition C is that the relevant contract was a chargeable asset immediately before that time.
- (5) If the company ceases to be a party to the contract, it must bring into account for the accounting period in which it so ceases the amount of any chargeable gain or allowable loss which would have been treated as accruing to it on the assumptions in sub-paragraph (6).
- (6) Those assumptions are that—
- (a) the company disposed of the contract immediately before 3.00pm on 16 March 2005, and
 - (b) the disposal was for consideration of an amount equal to the value (if any) given to the contract in the accounts of the company at the end of the company's accounting period immediately before its first accounting period—
 - (i) beginning on or after 1 January 2005, and
 - (ii) ending on or after 16 March 2005.

Contracts which became derivative contracts on 28 July 2005

- 92 (1) This paragraph applies in relation to a company if conditions A, B and C are met in relation to a relevant contract.
- (2) Condition A is that the company was a party to the contract both immediately before and on 28 July 2005.
- (3) Condition B is that the contract—
- (a) was not a derivative contract immediately before that date, but
 - (b) apart from this paragraph, would have been a derivative contract on that date if an accounting period of the company began on that date.
- (4) Condition C is that the contract was a chargeable asset immediately before that date.
- (5) The relevant contract is treated for the purposes of Part 7 of this Act as a derivative contract entered into by the company on 28 July 2005 for consideration of an amount equal to the fair value of the contract on that date.

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- (6) If the company ceases to be a party to the contract, it must bring into account for the accounting period in which it so ceases the amount of any chargeable gain or allowable loss which would have been treated as accruing to it on the assumptions in sub-paragraph (7).
- (7) Those assumptions are that—
- (a) the company disposed of the contract immediately before 28 July 2005, and
 - (b) the disposal was for consideration of an amount equal to the fair value of the contract on that date.

Plain vanilla contracts which became derivative contracts before 30 December 2006

- 93 (1) This paragraph applies if—
- (a) a company is a party to a plain vanilla contract which (not having been a derivative contract) became a derivative contract before 30 December 2006,
 - (b) the company disposes of the derivative contract by ceasing to be a party to it, and
 - (c) paragraphs 91 and 92 do not apply in relation to the contract.
- (2) Section 699(1) (priority of this Part for corporation tax purposes) does not apply for the purpose of calculating any chargeable gain accruing to the company on the disposal.
- (3) For the purpose of calculating any chargeable gain accruing to the company on the disposal, the sums allowable as a deduction under section 38(1)(a) of TCGA 1992 (acquisition costs) are—
- (a) if G exceeds L, increased by the amount of that excess,
 - (b) if L exceeds G, reduced by the amount of that excess.
- (4) If the amount of the excess in sub-paragraph (3)(b) is greater than the amount of the expenditure allowable under section 38(1)(a) of TCGA 1992, the amount of the excess which cannot be deducted from the expenditure so allowable is, for the purpose mentioned in sub-paragraph (3), added to the consideration for the disposal.
- (5) In this paragraph—
- G is the sum of the credits brought into account under section 574 of this Act (non-trading credits and debits to be brought into account under Part 5) in respect of the derivative contract in each relevant accounting period, and
- L is the sum of the debits brought into account under that section in respect of the derivative contract in each such period.
- (6) In sub-paragraph (5) “relevant accounting period” means—
- (a) the accounting period in which the disposal is made, or
 - (b) any previous accounting period.

Issuers of securities with embedded derivatives: deemed options

- 94 (1) This paragraph applies if the company mentioned in section 652(1) was a party to the debtor relationship mentioned in section 652(2) immediately before its first accounting period to begin on or after 1 January 2005.
- (2) Section 653 (shares issued or transferred as a result of exercise of deemed option) does not apply.

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- (3) If section 654(2) (payment instead of disposal on exercise of deemed option) applies—
- (a) CV is taken to be nil, and
 - (b) an allowable loss of an amount equal to X is treated as accruing to the company in the accounting period mentioned in section 654(2).
- (4) Section 655 (ceasing to be party to debtor relationship when deemed option not exercised) does not apply.

Contract becoming derivative contract on 12 March 2008

- 95 (1) This paragraph applies if a company was, immediately before 12 March 2008, a party to a relevant contract which became a derivative contract by virtue of the amendments made by paragraph 20 of Schedule 22 to FA 2008.
- (2) The contract is to be regarded for the purposes of Part 7 as having been entered into by the company on 12 March 2008 for consideration of an amount equal to its notional carrying value (within the meaning of section 622) on that date.

Avoidance relying on continuity of treatment provisions: transactions before 16 May 2008

- 96 Section 629 (disapplication of section 625 where transferor party to avoidance involving subsequent transfer by transferee) does not have effect in relation to transactions taking place, or a series of transactions of which the first takes place, before 16 May 2008.

Disposals for consideration not fully recognised by accounting practice: disposals before 16 May 2008

- 97 Section 698 (disposals for consideration not fully recognised by accounting practice) does not have effect in relation to disposals before 16 May 2008.

References to Companies Act 2006

- 98 Until section 658 of the Companies Act 2006 (c. 46) (rule against limited company acquiring own shares) comes into force, references to that section in sections 674(3) (g)(ii) and 682(6)(b) have effect as if they were references to section 143 of the Companies Act 1985 (c. 6).

PROSPECTIVE

Repeal of provisions concerning exchange gains and losses from derivative contracts

F1099

Textual Amendments

F10 Sch. 2 para. 99 omitted (with effect in accordance with Sch. 7 Pt. 6 of the amending Act) by virtue of Finance (No. 2) Act 2015 (c. 33), **Sch. 7 paras. 101(2), 105**

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PART 11

INTANGIBLE FIXED ASSETS

Transactions between related parties

- 100 (1) Sub-paragraphs (2) and (3) apply in relation to any accounting period that began before 12 March 2008 and ends after 31 March 2009.
- (2) For the purposes of section 835(7) to (9)—
- (a) so much of the period as falls before 12 March 2008 is treated as an accounting period, and
 - (b) so much of the period as falls on or after that date is treated as a separate accounting period.
- (3) Section 835(7) to (9) only has effect in relation to the credits and debits to be brought into account for the accounting period mentioned in sub-paragraph (2)(b).
- (4) Section 835(7) to (9) does not apply for the purposes of determining whether a party was a related party in relation to a company at a time before 12 March 2008.
- (5) For the purposes of sections 845 to 849 (transactions between related parties: transfers treated as being at market value) as they apply otherwise than for determining the credits and debits to be brought into account under Part 8, section 835(7) to (9) only has effect in relation to transfers of assets made on or after 12 March 2008.
- (6) For the purposes of sections 845 to 849 as they apply otherwise than for determining the debits or credits to be brought into account under Part 8, in relation to any transfer made before 16 March 2005 section 835 (“related party”) applies with the omission of subsection (5)(b).
- (7) Sections 847 (transfers involving other taxes) and 849 (transfers involving gifts of business assets) do not have effect in relation to any transfer of assets made before 16 March 2005.

Continuity: formation of an SE before 1 April 2005

- 101 Section 770 (continuity where group includes an SE) does not apply in relation to the formation of an SE (including its formation by transformation) which occurs before 1 April 2005.

References to Companies Act 2006

- 102 Until section 658 of the Companies Act 2006 (c. 46) (rule against limited company acquiring own shares) comes into force, references to that section in sections 819(3)(f)(ii) and 821(5)(b) have effect as if they were references to section 143 of the Companies Act 1985 (c. 6).

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PART 12

BENEFICIARIES' INCOME FROM ESTATES IN ADMINISTRATION

Basic amounts

- 103 (1) Sub-paragraph (2) applies if any previous accounting period to which regard is to be had for the purposes of section 948 (assumed income entitlement) is an accounting period ending before 1 April 2009 (an “old accounting period”).
- (2) In relation to the old accounting period, the reference in Step 4 in subsection (1) of that section to basic amounts relating to the person's absolute interest in respect of which the company was liable to corporation tax for that period is to be taken as a reference to the amount deemed to have been paid to that company as income for that period in respect of that interest by virtue of section 696 of ICTA.
- (3) Sub-paragraph (4) applies if one or more of the absolute interests referred to in section 954(1) (successive absolute interests) was held in one or more old accounting periods.
- (4) The reference in section 954(2)(b) to the basic amounts relating to any previous such interest includes a reference to the amounts deemed to have been paid to the previous holder as income for old accounting periods in respect of that interest by virtue of section 696 of ICTA.
- (5) Sub-paragraph (6) applies if any of the limited interests referred to in section 955(1) (d) (successive interests: assumed income entitlement of holder of absolute interest following limited interest) was held in one or more old accounting periods.
- (6) The reference in section 955(4) to the basic amounts relating to any previous such interest includes a reference to the amounts deemed to have been paid to the holders of any such interests as income for old accounting periods in respect of those interests by virtue of section 695 of ICTA.
- (7) In the case of a UK estate, references in this paragraph to the amounts deemed to have been paid are references to the amounts that would be deemed to have been paid apart from sections 695(4)(a) and 696(4) of ICTA (grossing up).

Income treated as bearing income tax

- 104 (1) A sum treated as part of the aggregate income of an estate by virtue of section 547(1) (c) of ICTA (gains from life insurance contracts etc) as the result of an event that occurred before 6 April 2004 is treated for the purposes mentioned in section 963(1) of this Act as bearing income tax by deduction at the basic rate (as defined in section 832(1) of ICTA at the time the event occurred).
- (2) A sum treated as part of the aggregate income of an estate by virtue of section 547(1) (c) or 701(8)(e) of ICTA (gains from life insurance contracts etc) as the result of an event that occurred on or after 6 April 2004 and before 6 April 2007 is treated for the purposes mentioned in section 963(1) of this Act as bearing income tax by deduction at the lower rate (as defined in section 832(1) of ICTA at the time the event occurred).
- (3) A sum treated as part of the aggregate income of an estate by virtue of section 547(1) (c) or 701(8)(e) of ICTA (gains from life insurance contracts etc) as the result of an event that occurred on or after 6 April 2007 and before 6 April 2008 is treated for

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the purposes mentioned in section 963(1) of this Act as bearing income tax at the savings rate (as defined in section 989 of ITA 2007 at the time the event occurred).

(4) If sub-paragraph (2) or (3) applies section 962(3) applies as if the following paragraph were inserted after paragraph (a)—

“(aa) income bearing income tax at the lower rate (as defined in section 832(1) of ICTA at the time the event as a result of which the income arose occurred) or bearing income tax at the savings rate (as defined in section 989 of ITA 2007 at the time that event occurred),”.

PART 13

RELIEF FOR SHARE INCENTIVE PLANS

Deduction for contribution to plan trust

105 Section 989(1)(a) does not apply in relation to a payment made before 6 April 2003.

Award of shares to excluded employee

106 (1) This paragraph applies if an amount is received by a company under section 992 as a result of shares having been awarded to an excluded employee in an accounting period that ends before 1 April 2009.

(2) Section 986 does not apply in relation to the amount.

(3) The amount is treated as a trading receipt of the company for the period of account in which the shares were awarded to the excluded employee.

PART 14

OTHER RELIEF FOR EMPLOYEE SHARE ACQUISITIONS

Accounting periods beginning before 1 January 2003

107 (1) Relief is not available under Part 12 in relation to shares acquired so far as a deduction is available or has been made in relation to relevant expenses in calculating the chargeable profits of the employing company or any other company for corporation tax purposes for an accounting period beginning before 1 January 2003.

(2) “Relevant expenses” means any expenses referable, directly or indirectly, to the provision of the shares acquired.

Restricted shares not to include shares acquired before 16 April 2003

108 In Part 12 “restricted shares” does not include shares acquired before 16 April 2003.

Shares acquired before 16 April 2003 that are subject to forfeiture

109 (1) Relief under Part 12 is not available in relation to shares acquired before 16 April 2003 that are subject to forfeiture.

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- (2) “Subject to forfeiture” is to be read in accordance with paragraph 19 of Schedule 23 to FA 2003 as originally enacted.
- (3) Accordingly, Schedule 23 to FA 2003 continues to apply in relation to such shares (despite the repeal by this Act of that Schedule or of any provision modifying, or affecting the application of, that Schedule).

Meaning of “employment” for times before 16 April 2003

- 110 In relation to any time before 16 April 2003, Part 12 applies as if section 1002(2) were omitted.

Relief under Chapters 4 and 5 of Part 12

- 111 (1) This paragraph applies for the purposes of Chapters 4 and 5 of Part 12 in their application in relation to shares or other securities acquired during an accounting period that ends before 1 April 2009.
- (2) In accordance with Part 1 of this Schedule (continuity of law), references to relief under Chapter 2 or 3 of Part 12 are to be read as references to relief under Schedule 23 to FA 2003 (as that Schedule applied when the shares or other securities were acquired) available on the acquisition.

PART 15

RESEARCH AND DEVELOPMENT

Rates of relief

- 112 (1) In relation to expenditure incurred before 1 August 2008, Part 13 has effect with the following modifications.
- (2) In Chapter 2 (relief for SMEs: cost of R&D incurred by SME)—
- (a) in section 1044(8), for “75%” substitute “ 50% ”,
 - (b) in section 1045(7), for “175%” substitute “ 150% ”,
 - (c) in section 1055(2)(b), for “175%” substitute “ 150% ”, and
 - (d) in section 1058(1)(a), for “14%” substitute “ 16% ”.
- (3) In Chapter 7 (relief for SMEs and large companies: vaccine research etc)—
- (a) in section 1089(2), for “40%” substitute “ 50% ”,
 - (b) in section 1090(2), for “40%” substitute “ 50% ”,
 - (c) in section 1091—
 - (i) in subsection (3), for “40%” substitute “ 50% ”, and
 - (ii) in subsection (4), for “140%” substitute “ 150% ”,
 - (d) in section 1092(8)—
 - (i) in paragraph (a), for “40%” substitute “ 50% ”, and
 - (ii) in paragraph (b), for “140%” substitute “ 150% ”, and
 - (e) in section 1104(5), for “140%” substitute “ 150% ”.

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R&D threshold in section 1050: qualifying Chapter 3 and 4 expenditure

- 113 (1) The references in section 1050(3)(b) and (c) to qualifying Chapter 3 expenditure and qualifying Chapter 4 expenditure do not include any such expenditure incurred before 1 April 2002.
- (2) For the purposes of sub-paragraph (1) section 61 (pre-trading expenses) is to be ignored.

Chapters 3 to 5 of Part 13: expenditure incurred before 1 April 2002

- 114 (1) Chapters 3 to 5 of Part 13 do not apply to expenditure incurred before 1 April 2002.
- (2) For this purpose section 61 (pre-trading expenses) is to be ignored.

Chapter 7 of Part 13: expenditure incurred before 22 April 2003

- 115 (1) Chapter 7 of Part 13 (relief for SMEs and large companies: vaccine research etc) does not apply to expenditure incurred before 22 April 2003.
- (2) For this purpose section 61 (pre-trading expenses) is to be ignored.

Cap on R&D aid under Chapter 2 or 7 of Part 13

- 116 For the purposes of any calculation in accordance with section 1114, no account is to be taken of any qualifying R&D relief (as defined in section 1113(4)) in respect of expenditure incurred before 1 August 2008.

Chapter 7 of Part 13: qualifying expenditure on contracted out R&D

- 117 (1) Section 1135(4) (time limit for notice of election for connected persons treatment) does not apply to a notice of an election under that section in relation to a sub-contractor payment made by a company if—
- (a) the company has qualifying expenditure on contracted out research and development (as defined in section 1102),
 - (b) the sub-contractor is—
 - (i) a charity,
 - (ii) a university, or
 - (iii) an association of a description specified in section 508 of ICTA (scientific research organisations), and
 - (c) the notice is given before 1 August 2009.
- (2) In sub-paragraph (1) “sub-contractor” and “sub-contractor payment” have the same meaning as in Part 13 (see section 1133).

Small or medium-sized enterprises

- 118 (1) In relation to expenditure incurred before 1 August 2008, Part 13 has effect with the omission of the larger SME provisions.
- (2) The “larger SME provisions” are—
- sections 1089(4) and 1090 (modification of section 1089 for larger SMEs),
 - section 1093 (modification of section 1092 for larger SMEs),

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section 1104(5) (modification of amount B in section 1104 for larger SMEs), qualification 1 in section 1120(2) (qualifications to section 1119), and section 1121 (meaning of “larger SME”).

- (3) But for the purpose of determining, in relation to expenditure incurred on or after 1 August 2008, whether a company is a small or medium-sized enterprise within the meaning of Part 13, the larger SME provisions are to be treated as always having had effect.

Staffing costs

- 119 (1) In its application to expenditure incurred—
- (a) before 1 April 2004, and
 - (b) in an accounting period ending on or after 6 April 2003,
- section 1123 has effect with the following modification.
- (2) For subsections (2) and (3) substitute—
- “(2) This subsection applies to earnings paid by the company to directors or employees of the company.
- For this purpose “earnings” means earnings or amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of ITEPA 2003).”
- 120 In its application to expenditure incurred before 1 August 2008, section 1123 has effect with the omission of subsections (5) and (6).
- 121 (1) In relation to expenditure incurred before 27 September 2003, section 1124 applies, for the purposes of Chapters 2 and 7 of Part 13, with the modification in sub-paragraph (3).
- (2) In relation to expenditure incurred before 9 April 2003, section 1124 applies, for the purposes of Chapters 3 to 5 of Part 13, with the modification in sub-paragraph (3).
- (3) For subsections (3) and (4) substitute—
- “(3) In the case of a director (“D”) or employee (“E”) partly engaged directly and actively in relevant research and development the following rules apply—
- (a) if the time D or E spends so engaged is less than 20% of D's or E's total working time, none of the staffing costs relating to D or E is treated as attributable to relevant research and development,
 - (b) if the time D or E spends so engaged is more than 80% of D's or E's total working time, the whole of the staffing costs relating to D or E is treated as attributable to relevant research and development,
 - (c) in any other case, an appropriate proportion of the staffing costs relating to D or E is treated as attributable to relevant research and development.”

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Expenditure on software [F11, data licences, cloud computing services] or consumable items

Textual Amendments

F11 Words in Sch. 2 para. 122 cross-heading inserted (with effect in relation to accounting periods beginning on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 1 paras. 7\(a\)](#), **20**

- 122 (1) In relation to expenditure incurred before 1 April 2004, Part 13 applies with the following modifications.
- (2) For “software [F12, data licences, cloud computing services] or consumable items” in each place where it occurs, substitute “consumable stores”.
- (3) For sections 1125 and 1126 substitute—

“1125 Consumable stores

- (1) For the purposes of this Part expenditure on consumable stores means expenditure that would be treated as expenditure on consumable stores in accordance with normal accounting practice.
- (2) For the purposes of this Part expenditure on consumable stores is attributable to relevant research and development if the stores are employed directly in such research and development.”

Textual Amendments

F12 Words in Sch. 2 para. 122(2) inserted (with effect in relation to accounting periods beginning on or after 1.4.2023) by [Finance \(No. 2\) Act 2023 \(c. 30\)](#), [Sch. 1 paras. 7\(b\)](#), **20**

Qualifying expenditure on externally provided workers

- 123 (1) In relation to expenditure incurred before 27 September 2003, Chapters 2 and 4 of Part 13 (relief for SMEs: cost of R&D borne by SME, and subsidised expenditure on R&D) apply with the omission of—
- (a) section 1052(2)(c),
 - (b) section 1071(3)(c),
 - (c) in section 1134(3)(c), the words “or is qualifying expenditure on externally provided workers”,
 - (d) section 1134(5)(b), and
 - (e) sections 1127 to 1132, as they apply for the purposes of those Chapters.
- (2) In relation to expenditure incurred before 9 April 2003, Chapter 3 of Part 13 (relief for SMEs: R&D sub-contracted to SME) applies with the omission of—
- (a) section 1066(3)(c), and
 - (b) sections 1127 to 1132, as they apply for the purposes of that Chapter.
- (3) In relation to expenditure incurred before 9 April 2003, Chapter 5 of Part 13 (relief for large companies) applies with the omission of—
- (a) section 1077(2)(c), and
 - (b) sections 1127 to 1132, as they apply for the purposes of that Chapter.

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- (4) In relation to expenditure incurred by a large company before 27 September 2003, Chapter 7 of Part 13 (relief for SMEs and large companies: vaccine research etc) applies in the case of such a company with the omission of—
- (a) section 1101(4)(c), and
 - (b) sections 1127 to 1132, as they apply for the purposes of that Chapter.
- (5) In sub-paragraph (4) “large company” has the same meaning as in Part 13.

Qualifying expenditure on relevant payments to subjects of clinical trials

- 124 (1) In relation to expenditure incurred before 1 August 2008, Chapter 2 of Part 13 (relief for SMEs: cost of R&D borne by SME) applies with the omission of—
- (a) section 1052(2)(d),
 - (b) section 1071(3)(d),
 - (c) in section 1134(3)(c), the words “or relevant payments to the subjects of a clinical trial”, and
 - (d) section 1140, as it applies for the purposes of that Chapter.
- (2) In relation to expenditure incurred before 1 August 2008, Chapter 3 of Part 13 (relief for SMEs: cost of R&D sub-contracted to SME) applies with the omission of—
- (a) section 1066(3)(d), and
 - (b) section 1140, as it applies for the purposes of that Chapter.
- (3) In relation to expenditure incurred before 1 April 2006, Chapter 4 of Part 13 (relief for SMEs: subsidised expenditure on R&D) applies with the omission of—
- (a) section 1071(3)(d),
 - (b) in section 1134(3)(c), the words “or relevant payments to the subjects of a clinical trial”, and
 - (c) section 1140, as it applies for the purposes of that Chapter.
- (4) In relation to expenditure incurred before 1 April 2006, Chapter 5 of Part 13 (relief for large companies) applies with the omission of—
- (a) section 1077(2)(d), and
 - (b) section 1140, as it applies for the purposes of that Chapter.
- (5) In relation to expenditure incurred before 1 August 2008, Chapter 7 of Part 13 (relief for SMEs and large companies: vaccine research etc) applies with the omission of—
- (a) section 1101(4)(d), and
 - (b) section 1140, as it applies for the purposes of that Chapter.

PART 16

REMEDIATION OF CONTAMINATED LAND

Part 14: expenditure incurred before 11 May 2001

- 125 (1) Part 14 does not apply to expenditure incurred before 11 May 2001.
- (2) For this purpose section 61 (pre-trading expenses) is to be ignored.

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Staffing costs

- 126 (1) In its application to expenditure incurred—
- (a) before 1 April 2004, and
 - (b) in an accounting period ending on or after 6 April 2003,
- section 1170 has effect with the following modification.
- (2) For subsections (2) and (3) substitute—
- “(2) This subsection applies to earnings paid by the company to directors or employees of the company.
- For this purpose “earnings” means earnings or amounts treated as earnings which constitute employment income (see section 7(2)(a) or (b) of ITEPA 2003).”

PART 17

FILM PRODUCTION

Interpretation

- 127 The provisions of sections 1181 to 1187 apply for the purposes of this Part of this Schedule as if this Part were contained in Part 15 of this Act.

Chapters 2 and 3 of Part 15 to apply only to films that commence principal photography on or after 1 January 2007

- 128 Chapters 2 and 3 of Part 15 apply only in relation to films that commence principal photography on or after 1 January 2007 (but see paragraphs 130 and 131).
- 129 The references in section 1206 to the functions of the Secretary of State under Schedule 1 to the Films Act 1985 (c. 21) are to those functions only so far as they are exercised in relation to films that commence principal photography on or after 1 January 2007 (but see paragraphs 130 and 131).

Application of Part 15 etc to films that commenced principal photography before 1 January 2007 but were not completed before that date

- 130 (1) The Treasury may make provision by regulations for the application of the provisions of—
- (a) Part 15 or section 812 of this Act, and
 - (b) Chapter 3 of Part 3 of FA 2006 and any enactment amended by that Chapter,
- in relation to films that commenced principal photography before 1 January 2007 but were not completed before that date.
- (2) The regulations may provide for such adaptations and modifications of—
- (a) the provisions mentioned in sub-paragraph (1), and
 - (b) any other provision of the Corporation Tax Acts,
- as appear to the Treasury appropriate for that purpose.
- (3) The regulations may—

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- (a) provide that the provisions of Part 15 or section 812 of this Act (or any specified provisions of that Part or section) or Chapter 3 of Part 3 of FA 2006 (or any specified provisions of that Chapter) have effect as if they had been in force at all material times,
 - (b) require or authorise the making or amendment of returns, or the making of assessments, in relation to past accounting periods or tax years (whenever beginning), and
 - (c) authorise the making of any such return, amendment or assessment despite any limitation on the time within which a return, amendment or assessment may normally be made.
- 131 (1) In accordance with Part 1 of this Schedule, the Corporation Tax (Taxation of Films) (Transitional Provisions) Regulations 2007 (S.I. 2007/1050) have effect as if made under paragraph 130 above.
- (2) For that purpose they are amended as follows.
 - (3) In regulation 1(2) for “(films and sound recordings)” substitute “ and Part 15 and section 812 of the Corporation Tax Act 2009 (film production) ”.
 - (4) Omit regulation 2.
 - (5) In regulation 3 for “Chapter 3 of Part 3” substitute “ Part 15 and section 812 of the Corporation Tax Act 2009, Chapter 3 of Part 3 of the Finance Act 2006 ”.
 - (6) In regulation 4 for “section 32” substitute “ section 1182 of the Corporation Tax Act 2009 ” (and make a corresponding change in the heading for regulation 4).
 - (7) In regulation 5 for “section 40” substitute “ section 1197 of the Corporation Tax Act 2009 ” (and make a corresponding change in the heading for regulation 5).
 - (8) In regulation 6(1) after “section 46” insert “ of the Finance Act 2006 ” (and make a corresponding change in the heading for regulation 6).
 - (9) In regulation 7(1) after “section 47” insert “ of the Finance Act 2006 ” (and make a corresponding change in the heading for regulation 7).
 - (10) For regulation 8 substitute—

Modification of section 812 of the Corporation Tax Act 2009 (intangible fixed assets: films)

- “8 In section 812(1) of the Corporation Tax Act 2009—
- (a) in paragraph (a) for “that began principal photography before 1st January 2007” substitute “ to which Chapter 2 of Part 15 of the Corporation Tax Act 2009 does not apply ”, and
 - (b) in paragraph (b) for “1st October 2007” substitute “31st March 2008”.

- (11) For regulation 9 substitute—

Modification of section 1188 of the Corporation Tax Act 2009 (taxation of activities of film production company)

- “9 In section 1188(1) of the Corporation Tax Act 2009 (taxation of activities of film production company) after “a film” insert “if the film—

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- (a) is certified by the Secretary of State under Schedule 1 to the Films Act 1985 as a British film for the purposes of film tax relief, and
 - (b) is intended for theatrical release at the time principal photography commences””
- (12) In regulation 10(1) after “Schedule 5” insert “ to the Finance Act 2006 ” (and make a corresponding change in the heading for regulation 10).
- (13) Omit regulation 10(2).
- (14) In regulation 10(5) for the words after “sections 46 and 47” substitute “ of the Finance Act 2006 (films: withdrawal of existing reliefs) and section 1188(1) of the Corporation Tax Act 2009 (taxation of activities of film production company) ”.
- (15) In regulation 13(1)—
- (a) for “Chapter 3 of Part 3” substitute “ Part 15 or section 812 of the Corporation Tax Act 2009, of Chapter 3 of Part 3 of the Finance Act 2006 ”, and
 - (b) for “whether before or after the commencement of that Chapter” substitute “ whenever beginning ”.

Prohibition on double counting

- 132 (1) Expenditure is not to be taken into account for the purposes of Chapter 2 of Part 15 if relief has been given in respect of it under—
- (a) section 40B, 41 or 42 of F(No.2)A 1992,
 - (b) section 48 of F(No.2)A 1997, or
 - (c) section 135, 136 to 138A or 139 to 142 of ITTOIA 2005.
- (2) For the purposes of paragraph 130 and any regulations made under that paragraph, sub-paragraph (1) of this paragraph is treated as if contained in Part 15.

PART 18

MANAGEMENT EXPENSES

Unpaid remuneration

- 133 (1) This paragraph applies for the purposes of section 1249.
- (2) In relation to a period of account ending before 27 November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount which is held by an intermediary with a view to its becoming employees' remuneration.
- (3) In relation to a period of account ending on or after 27 November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount—
- (a) in respect of employee benefit contributions (within the meaning of sections 1290 to 1296) made before that date, and
 - (b) which is held by an intermediary,
- with a view to its becoming employees' remuneration.

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PART 19

UNREMITTABLE INCOME

Unremittable income that arose in an accounting period ending before 1 April 2009

- 134 (1) A claim may be made under section 1275 (claim for relief for unremittable income) for an accounting period ending after 31 March 2009, despite the income having arisen in an accounting period ending before 1 April 2009.
- (2) Section 1276 (withdrawal of relief) applies for an accounting period ending after 31 March 2009, despite the income having arisen originally in an accounting period ending before 1 April 2009 (whether the claim in respect of it was made under section 584 of ICTA (relief for unremittable overseas income) or section 1275 of this Act).

Withdrawal of relief: income that arose in an accounting period ending before 1 October 1993

- 135 Section 1277 (income charged on withdrawal of relief after source ceases) does not apply if the income originally arose in an accounting period ending before 1 October 1993.

PART 20

GENERAL EXEMPTIONS

Ulster savings certificates

- 136 In the case of certificates acquired before 27 July 1981, in section 1282(4) for “the Department of Finance and Personnel” substitute “ the Treasury ”.

PART 21

OTHER PROVISIONS

Training courses for employees

- 137 (1) This paragraph applies if, without the repeal by this Act of section 588 of ICTA (training courses for employees)—
- (a) section 588(5) of ICTA would operate in relation to an employee by virtue of paragraph (a) of that provision and paragraph 37 of Schedule 7 to ITEPA 2003 (savings in relation to tax years before 2003-04),
 - (b) section 588(5) of ICTA would operate in relation to an employer by virtue of paragraph (b) of that provision and paragraph 37 of Schedule 7 to ITEPA 2003, or
 - (c) section 588(6) ^{F13}... of ICTA would operate in relation to an employer by virtue of paragraph 37 of Schedule 7 to ITEPA 2003.
- (2) That repeal does not apply in relation to—

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- (a) the operation of section 588(5) of ICTA in relation to the employee as mentioned in sub-paragraph (1)(a),
- (b) the operation of section 588(5) of ICTA in relation to the employer as mentioned in sub-paragraph (1)(b), or
- (c) the operation of section 588(6)^{F14}... of ICTA in relation to the employer as mentioned in sub-paragraph (1)(c).

Textual Amendments

- F13** Words in Sch. 2 para. 137(1)(c) omitted (13.8.2009) by virtue of Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, Sch. para. 59(a)
- F14** Words in Sch. 2 para. 137(2)(c) omitted (13.8.2009) by virtue of Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, Sch. para. 59(a)

- 138 In the Table in section 98 of TMA 1970 (special returns etc)—
- (a) the entry relating to section 588(6) of ICTA,^{F15} ...
 - ^{F15}(b)
- continue to have effect (despite the repeal by this Act of those entries) in relation to section 588(6)^{F16}... as it has effect by virtue of paragraph 137.

Textual Amendments

- F15** Sch. 2 para. 138(b) and preceding word omitted (13.8.2009) by virtue of Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, Sch. para. 59(b)
- F16** Words in Sch. 2 para. 138 omitted (13.8.2009) by virtue of Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, Sch. para. 59(b)

- 139 (1) This paragraph applies if—
- (a) at any time during the period beginning with 6 April 2003 and ending with 31 March 2009, a company (“the employer”) incurred expenditure in paying or reimbursing retraining course expenses within the meaning of section 311 of ITEPA 2003,
 - (b) the employer's liability to corporation tax for any accounting period has been determined (before or after 1 April 2009, and by assessment or otherwise) on the assumption that, by virtue only of subsection (3) (or subsections (3) and (4)) of section 588 of ICTA, the employer is entitled to a deduction on account of the expenditure, and
 - (c) before 1 April 2009, no assessment has been made under paragraph 41 of Schedule 18 to FA 1998 by virtue of section 588(5) of ICTA of an amount due in consequence of the failure by the person in respect of whom the expenditure was incurred to meet a condition of the kind mentioned in section 312(1)(b)(i) or (ii) of ITEPA 2003.
- (2) Section 75 (retraining courses: recovery of tax) applies in relation to the employer as if the condition in subsection (1) of that section were met.
- (3) [^{F17}Section 81(4) of FA 2012 (which, in the case of companies carrying on basic life assurance and general annuity business, applies section 75(2) to (4))] applies in relation to the employer as if the [^{F18}conditions in paragraphs (a) and (b) of that subsection] were met.

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- (4) In the application of section 75 of this Act [^{F19}(including as applied by section 81(4) of FA 2012)] to the employer, references to “the employee” are to the person in respect of whom the expenditure was incurred by the employer.

Textual Amendments

- F17** Words in Sch. 2 para. 139(3) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 16 para. 213(2)(a)
F18 Words in Sch. 2 para. 139(3) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 16 para. 213(2)(b)
F19 Words in Sch. 2 para. 139(4) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 16 para. 213(2)(c)

Unpaid remuneration

- 140 (1) This paragraph applies for the purposes of—
- (a) section 1288 of this Act (unpaid remuneration), and
 - (b) [^{F20}the application by section 82 of FA 2012 of section 1249(1) to (3) of this Act] (corresponding provision for companies carrying on life assurance business).
- (2) In relation to a period of account ending before 27 November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount which is held by an intermediary with a view to its becoming employees' remuneration.
- (3) In relation to a period of account ending on or after 27 November 2002, an amount charged in the accounts in respect of employees' remuneration includes an amount—
- (a) in respect of employee benefit contributions (within the meaning of sections 1290 to 1296) made before that date, and
 - (b) which is held by an intermediary,
with a view to its becoming employees' remuneration.

Textual Amendments

- F20** Words in Sch. 2 para. 140(1)(b) substituted (17.7.2012) by Finance Act 2012 (c. 14), Sch. 16 para. 213(3)

Employee benefit contributions

- 141 Section 1290 does not apply to deductions that would otherwise be allowed—
- (a) for a period ending before 27 November 2002, or
 - (b) in respect of employee benefit contributions made before that date.

Interest on overdue corporation tax etc

- 142 (1) The repeal by this Act of section 90(1)(b) of TMA 1970 does not affect the following rules.
- (2) In calculating profits for any corporation tax purpose, no deduction is allowed for interest payable under section 86 of TMA 1970 (interest on overdue tax for accounting periods ending before 1 October 1993).

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- (3) In calculating profits for any corporation tax purpose, no deduction is allowed for interest payable under section 87 of TMA 1970 (interest on overdue advance corporation tax and income tax on company payments) or section 87A of TMA 1970 (interest on overdue corporation tax etc) on—
- (a) corporation tax for accounting periods ending before 1 July 1999, or
 - (b) tax assessable in accordance with Schedule 13 or 16 of ICTA for return periods in accounting periods ending before 1 July 1999.

*Miscellaneous profits and losses: apportionment
to accounting periods ending before 1 April 2009*

- 143 (1) This paragraph applies if—
- (a) a relevant period of account begins before 1 April 2009 and ends on or after that date, and
 - (b) in order to arrive at the profits or losses of an accounting period ending before 1 April 2009 it is necessary to apportion the profits or losses of the relevant period of account to any part of that period before 1 April 2009.
- (2) A period of account is a “relevant period” if—
- (a) section 1307 applies to the period of account, and
 - (b) the profits or losses of the part of the period of account falling in an accounting period ending after 31 March 2009 are calculated in accordance with this Act.
- (3) The profits or losses of the relevant period of account—
- (a) are calculated in accordance with this Act (and therefore, to that extent, this Act has effect for accounting periods ending before 1 April 2009), and
 - (b) may be apportioned in accordance with section 1307 to any part of the period of account falling in an accounting period ending before 1 April 2009.

Purchase and sale of securities: references to setting up and commencement etc of a trade

- 144 In section 731 of ICTA, as that section has effect in accordance with section 66(6) of FA 2008 (purchase and sale of securities: securities purchased before 1 April 2008)—
- (a) the reference in subsection (7) to the setting up and commencement of a trade is to be read as including any event that would be treated as the setting up and commencement of the trade if sections 114(1) and 337(1) of ICTA were not repealed by this Act, and
 - (b) the reference in subsection (8) to the deemed discontinuance of a trade is to be read as including any event that would be treated as the discontinuance of the trade if sections 114(1) and 337(1) of ICTA were not repealed by this Act.

References to Companies Act 2006

- 145 Until section 658 of the Companies Act 2006 (c. 46) (rule against limited company acquiring own shares) comes into force, references to that section in sections 807B(3)(f)(ii) and 807D(7)(b) of ICTA (which are inserted by Schedule 1 to this Act) have effect as if they were references to section 143 of the Companies Act 1985 (c. 6).

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Charges to tax under Case VI of Schedule D in subordinate legislation

- 146 (1) This paragraph applies if—
- (a) a provision of the Corporation Tax Acts (“the rule”) contains a reference such as is mentioned in [F²¹section 1173(1) of CTA 2010] (that is, a reference to any provision to which [F²²section 1173 of CTA 2010] applies),
 - (b) immediately before 1 April 2009 the reference was to Case VI of Schedule D (or, if the rule rewrites a provision that is repealed by this Act, the corresponding reference in that provision was to Case VI of Schedule D), and
 - (c) by virtue of that reference, the rule (or the provision that it rewrites) then applied in relation to amounts charged, under a provision of subordinate legislation, to corporation tax under Case VI of Schedule D.
- (2) As long as the provision of subordinate legislation continues to be expressed by reference to Case VI of Schedule D, the Corporation Tax Acts have effect as if it were listed in the table in [F²³section 1173(2) of CTA 2010] .
- (3) In this paragraph “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

Textual Amendments

- F21** Words in *Sch. 2 para. 146(1)(a)* substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 703(2)(a)(i)* (with *Sch. 2*)
- F22** Words in *Sch. 2 para. 146(1)(a)* substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 703(2)(a)(ii)* (with *Sch. 2*)
- F23** Words in *Sch. 2 para. 146(2)* substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 703(2)(b)* (with *Sch. 2*)

- 147 (1) This paragraph applies if immediately before 1 April 2009 a provision of subordinate legislation (within the meaning of the Interpretation Act 1978) treated amounts as losses incurred in a transaction in respect of which a person is within the charge to corporation tax under Case VI of Schedule D.
- (2) As long as the provision continues to be expressed by reference to Case VI of Schedule D, it has effect as if it treated the amounts as losses incurred in a transaction in respect of which the person is within the charge to corporation tax under a provision to which [F²⁴section 1173 of CTA 2010] applies.

Textual Amendments

- F24** Words in *Sch. 2 para. 147(2)* substituted (with effect in accordance with s. 1184(1) of the amending Act) by *Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 703(3)* (with *Sch. 2*)

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