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SCHEDULES

SCHEDULE 1

BANK PAYROLL TAX

PART 2

COLLECTION AND MANAGEMENT OF TAX

Responsibility for collection and management

- 16 The Commissioners are responsible for the collection and management of bank payroll tax.

Due date for payment

- 17 Bank payroll tax is payable by taxable companies on or before 31 August 2010.

Obligation to deliver return

- 18 (1) In order to establish the amount of bank payroll tax payable by it, every taxable company must deliver a return to HMRC.
- (2) The return must be delivered on or before 31 August 2010.
- (3) A return under this paragraph is referred to as a bank payroll tax return.

Content etc of return

- 19 (1) HMRC may publish requirements as to—
- (a) the information to be contained in bank payroll tax returns,
 - (b) the form in which they must be made,
 - (c) the manner in which they must be delivered, and
 - (d) the documents to be delivered with them.
- (2) A bank payroll tax return must include—
- (a) an assessment (a “self-assessment”) of the amount of bank payroll tax payable by the taxable company on the basis of the information contained in it, and
 - (b) a declaration by the person making it that, to the best of that person's knowledge, it is correct and complete.

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Failure to include self-assessment

- 20 (1) If a taxable company delivers a bank payroll tax return but fails to include a self-assessment, HMRC may make the assessment on the company's behalf on the basis of the information contained in it.
- (2) The assessment is treated for the purposes of this Schedule as a self-assessment and as included in the return.

Amendment of return by company

- 21 (1) A taxable company may amend its bank payroll tax return.
- (2) An amendment under this paragraph is made by notice to HMRC in such form, and accompanied by such information, as HMRC may reasonably require.
- (3) No such amendment may be made after 31 August 2011.
- (4) Nothing in sub-paragraph (1) permits a taxable company to amend its return to revise an amount determined under paragraph 7(2), 12(2) or 13(3) merely because the amount determined under that provision differs from the amount which is actually paid or provided (or loaned).

Correction of return by HMRC

- 22 (1) HMRC may amend a bank payroll tax return so as to correct obvious errors or omissions in it (whether errors of principle, arithmetical mistakes or otherwise).
- (2) A correction under this paragraph is made by notice to the taxable company concerned.
- (3) No such correction may be made more than 9 months after—
- (a) the day on which the return was delivered, or
 - (b) if the correction is required in consequence of an amendment made under paragraph 21, the day on which that amendment was made.
- (4) A correction under this paragraph is of no effect if the taxable company gives notice rejecting it.
- (5) Notice of rejection must be given—
- (a) to the officer of Revenue and Customs by whom the correction notice was given, and
 - (b) before the end of the period of 30 days beginning with the date on which the correction notice was given.

Enquiry into return

- 23 (1) HMRC may enquire into a bank payroll tax return if they give notice to the taxable company of their intention to do so within the time allowed.
- (2) If the return was delivered on or before 31 August 2010, notice of enquiry may be given at any time on or before 31 August 2011.
- (3) If the return was delivered after 31 August 2010, notice of enquiry may be given at any time up to and including whichever of 31 January, 30 April, 31 July or 31 October next follows the first anniversary of the day on which the return was delivered.

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- (4) An enquiry extends to anything contained in the return or required to be contained in the return.
- (5) The following provisions of Schedule 18 to FA 1998 apply to an enquiry into a bank payroll tax return under this Schedule as they apply to an enquiry into a company tax return under that Schedule—
- (a) paragraph 24(4) to (5) (notice of enquiry),
 - (b) paragraph 25(2) (enquiry following amendment by company) (but as if the reference there to paragraph 24(2) or (3) were to sub-paragraph (2) or (3) of this paragraph),
 - (c) paragraph 31 (amendment of return by company during enquiry),
 - (d) paragraphs 31A to 31D (referral of questions to the tribunal during enquiry),
 - (e) paragraph 32(1) (completion of enquiry),
 - (f) paragraph 33 (direction to complete enquiry), and
 - (g) paragraph 34 (amendment of return after enquiry).

Determination by HMRC

- 24 (1) HMRC may determine to the best of their knowledge and belief the amount of bank payroll tax payable by a taxable company if the company has not delivered a bank payroll tax return on or before 31 August 2010.
- (2) Notice of the determination—
- (a) must be served on the company, and
 - (b) must state the date on which it is given.
- (3) The amount determined by HMRC is taken to be the amount payable by the company (in the same way as if it were an assessment) unless and until the determination is superseded by a relevant assessment.
- (4) A relevant assessment is an assessment—
- (a) included in a bank payroll tax return delivered by the company within the period of 12 months beginning with the date on which notice of the determination was given, or
 - (b) made by HMRC under paragraph 20 following delivery of such a return.
- (5) If—
- (a) proceedings have been commenced for the recovery of an amount determined by HMRC under this paragraph, and
 - (b) before the proceedings are concluded, the determination is superseded by a relevant assessment,
- the proceedings may be continued as if they were proceedings for the recovery of so much of the tax shown in the assessment as has not been paid.
- (6) No determination may be made under this paragraph after 31 August 2013.

Discovery assessment by HMRC

- 25 (1) This paragraph applies if HMRC discover, with respect to a taxable company, any of the following situations—
- (a) an amount which ought to have been assessed to bank payroll tax has not been assessed,

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- (b) an assessment to bank payroll tax is insufficient, or
 - (c) an amount of bank payroll tax has been repaid which ought not to have been repaid.
- (2) HMRC may make an assessment (a “discovery assessment”) in the amount or further amount which ought in their opinion to be charged or recovered in order to make good to the Crown the loss of bank payroll tax.
- (3) If the company has delivered a bank payroll tax return, HMRC may only make a discovery assessment if condition A or condition B is met.
- (4) Condition A is that the situation discovered by HMRC was brought about carelessly or deliberately by the company or a person acting on its behalf.
- (5) Condition B is that HMRC could not reasonably have been expected to be aware of the situation at the time when they—
 - (a) ceased to be entitled to give notice of enquiry into the return, or
 - (b) completed their enquiries into the return.
- 26 Notice of a discovery assessment—
 - (a) must be served on the taxable company, and
 - (b) must state the date on which it is given and the time by which an appeal may be brought against it.
- 27 (1) No discovery assessment may be made after the relevant deadline.
- (2) The relevant deadline is 5 April 2030 if the situation—
 - (a) was brought about deliberately by the taxable company, or
 - (b) was attributable to the taxable company's careless failure to deliver a bank payroll tax return on or before 31 August 2010.
- (3) Subject to sub-paragraph (2)(b), the relevant deadline is 5 April 2016 if the situation was brought about carelessly by the taxable company.
- (4) In all other cases, the relevant deadline is 5 April 2014.
- (5) In this paragraph—
 - (a) references to the situation are to the one discovered by HMRC, and
 - (b) references to the taxable company include a person acting on the company's behalf.
- 28 (1) If a discovery assessment is made with respect to a taxable company, the company may appeal against it.
- (2) Notice of appeal must be given—
 - (a) in writing,
 - (b) within the period of 30 days beginning with the date on which notice of the assessment was given, and
 - (c) to the officer of Revenue and Customs by whom notice of the assessment was given.
- (3) Any objection to a discovery assessment on the ground that paragraph 25, 26 or 27 was not complied with can only be made on an appeal against the assessment under this paragraph.

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Collection and recovery

- 29 (1) HMRC may publish requirements as to the method or methods of payment to be used by taxable companies for paying bank payroll tax.
- (2) Part 6 of TMA 1970 (collection and recovery) applies in relation to a charge to bank payroll tax as it applies in relation to a charge to corporation tax.
- (3) See also Chapter 5 of Part 7 of FA 2008 (which makes general provision about payment and enforcement).

Interest on late payments and repayments

- 30 (1) This paragraph applies if an order is made under section 104(3) of FA 2009 appointing a day on which sections 101 to 103 of that Act are to come into force for the purposes of bank payroll tax.
- (2) Part 2 of Schedule 53 to that Act (which makes special provision about the late payment interest start date) has effect for those purposes as if—
- (a) the reference in paragraph 4(1) to income tax or capital gains tax included a reference to bank payroll tax, and
 - (b) the Part included a provision that the late payment interest start date in respect of an amount of bank payroll tax assessed and recoverable under paragraph 25(1)(c) of this Schedule is 31 August 2010.
- (3) Interest charged under section 101 of FA 2009 on an amount of bank payroll tax may be enforced as if it were an amount of bank payroll tax payable by the taxable company.

Overpaid tax etc

- 31 (1) Paragraphs 50 to 51G of Schedule 18 to FA 1998 (overpaid tax etc) apply (so far as relevant) to bank payroll tax assessable for the chargeable period as they apply to corporation tax assessable for an accounting period, subject to the following modifications.
- (2) With respect to bank payroll tax, a claim under paragraph 51 may not be made after 31 August 2014.
- (3) For the purposes of paragraph 51E, the relevant restrictions for making a discovery assessment under this Schedule are—
- (a) the conditions mentioned in paragraph 25(3), and
 - (b) expiry of the relevant deadline as defined in paragraph 27.
- (4) Nothing in sub-paragraph (1) permits a taxable company to make a claim under paragraph 51 of Schedule 18 to FA 1998 with respect to bank payroll tax merely because an amount determined under paragraph 7(2), 12(2) or 13(3) differs from the amount which is actually paid or provided (or loaned).

Appeals and other proceedings

- 32 (1) Part 5 of TMA 1970 (appeals and other proceedings) applies in relation to an appeal against a discovery assessment to bank payroll tax as it applies in relation to an appeal against an assessment to corporation tax.

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- (2) References in that Part to tax are to be read accordingly.
- 33 (1) Where a provision of FA 1998 is applied by this Part of this Schedule, a reference in section 46D of TMA 1970 (questions to be determined by the relevant tribunal) to that provision includes a reference to that provision as so applied.
- (2) A reference in section 48 of TMA 1970 (application to appeals and other proceedings) to the Taxes Acts includes a reference to those Acts as applied by this Part of this Schedule.
- (3) Where a provision of FA 1998 is applied by this Part of this Schedule—
- (a) a reference in section 55 of TMA 1970 (recovery of tax not postponed) to that provision includes a reference to that provision as so applied, and
 - (b) references in that section to tax are to be read accordingly.

Obligation to preserve records

- 34 (1) Each taxable company must—
- (a) keep such records as may be needed to enable it to establish and verify the amount of bank payroll tax payable by it and to deliver a correct and complete bank payroll tax return, and
 - (b) preserve those records, and any other relevant records, until the end of 31 August 2016.
- (2) Other relevant records are records that—
- (a) may be needed for a purpose mentioned in sub-paragraph (1)(a), and
 - (b) are in the company's possession or power immediately before the commencement of this Schedule.
- (3) The obligation under sub-paragraph (1)(b) may be discharged by—
- (a) preserving the records in any form and by any means, or
 - (b) preserving the information contained in them in any form and by any means.
- (4) The obligation under sub-paragraph (1)(b) includes an obligation to preserve supporting documents (such as contracts, accounts and correspondence).
- 35 (1) A taxable company which fails to comply with paragraph 34 is liable to a penalty of an amount not exceeding £3,000.
- (2) Sections 100 to 102 of TMA 1970 apply to a penalty under this paragraph as they apply to a penalty under section 12B(5) of that Act.

Information powers

- 36 (1) Schedule 36 to FA 2008 (information and inspection powers) has effect as if the definition of tax in paragraph 63(1) included bank payroll tax.
- (2) Paragraph 21 of that Schedule (taxpayer notices) applies where a taxable company has made a bank payroll tax return as it applies where a person has made a company tax return and, in relation to bank payroll tax—
- (a) a reference in that paragraph to a chargeable period is to the chargeable period within the meaning of this Schedule, and
 - (b) a reference in that paragraph to a notice of enquiry is to a notice of enquiry under paragraph 23 of this Schedule.

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Penalties

- 37 (1) Schedule 24 to FA 2007 (penalties for errors) has effect as if in the Table in paragraph 1—
- (a) the list of taxes included bank payroll tax, and
 - (b) the list of documents included a bank payroll tax return.
- (2) In relation to bank payroll tax, any reference in that Schedule to a tax period is to the chargeable period within the meaning of this Schedule.
- 38 (1) Schedule 55 to FA 2009 (penalties for failure to make returns etc) has effect as if—
- (a) a bank payroll tax return were specified in the Table in paragraph 1 (and bank payroll tax were specified in relation to it), and
 - (b) the reference in paragraph 2 to a return falling within certain items in the Table included a reference to a bank payroll tax return.
- (2) Schedule 55 to FA 2009 has effect for the purposes of bank payroll tax in accordance with this paragraph whether or not it has come into force for other purposes.
- 39 (1) Schedule 56 to FA 2009 (penalties for failure to make payments on time etc) has effect for the purposes of bank payroll tax as follows.
- (2) The part of the Table in paragraph 1 headed “Principal amounts” has effect as if bank payroll tax were specified in column 2 and, in relation to that tax—
- (a) an amount shown (or treated as shown) in a bank payroll tax return were specified in column 3, and
 - (b) 31 August 2010 were specified in column 4.
- (3) The part of that Table headed “Amounts payable in default of a return being made” has effect as if bank payroll tax were specified in column 2 and, in relation to that tax—
- (a) an amount shown in a determination under paragraph 24 of this Schedule were specified in column 3, and
 - (b) 31 August 2010 were specified in column 4.
- (4) The part of that Table headed “Amount shown to be due in other assessments, determinations, etc” has effect as if—
- (a) bank payroll tax were a tax falling within any of items 1 to 6, 9 or 10, and
 - (b) an amount shown (or treated as shown) in a bank payroll tax return were an amount falling within any of those items.
- (5) Paragraph 2 (assessments and determinations in default of return) has effect as if the reference in paragraph (a) to a return falling within any item in the Table in Schedule 55 included a reference to a bank payroll tax return.
- (6) Paragraph 3 (amount of penalty) has effect as if sub-paragraph (1)(a) included a reference to a payment of bank payroll tax.
- (7) Schedule 56 to FA 2009 has effect for the purposes of bank payroll tax in accordance with this paragraph whether or not it has come into force for other purposes.

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Miscellaneous

- 40 (1) The following provisions of TMA 1970 apply for the purposes of bank payroll tax and this Schedule as they apply for the purposes of corporation tax and the Taxes Acts—
- (a) section 108 (responsibility of company officers),
 - (b) section 112 (loss, destruction or damage to assessments, returns etc),
 - (c) section 114 (want of form), and
 - (d) section 115 (delivery and service of documents).
- (2) The application of section 115 of TMA 1970 in relation to the delivery of bank payroll tax returns is subject to any requirements published under paragraph 19(1) of this Schedule.
- 41 Chapter 6 of Part 22 of CTA 2010 (collection etc of tax from UK representatives of non-UK resident companies) applies to this Part of this Schedule as it applies to enactments relating to corporation tax.
- 42 Section 118(5) to (7) of TMA 1970 (meaning of carelessly etc) applies for the interpretation of this Part of this Schedule, with references to tax being read as references to bank payroll tax.

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