SCHEDULES

SCHEDULE 1 U.K.

Section 22

BANK PAYROLL TAX

PART 1 U.K.

THE TAX

The tax

1 (1) This Schedule makes provision for taxable companies to be charged to a tax to be known as “bank payroll tax”.

(2) Bank payroll tax is chargeable on the aggregate of the amounts of chargeable relevant remuneration awarded during the chargeable period to or in respect of relevant banking employees of a taxable company by reason of their employment as relevant banking employees.

(3) Relevant remuneration awarded during the chargeable period to or in respect of a relevant banking employee of a taxable company by reason of the employee's employment as a relevant banking employee is “chargeable” relevant remuneration only if and to the extent that its amount exceeds £25,000.

Rate

2 Bank payroll tax is charged at the rate of 50%.

“Taxable company”

3 “Taxable company” means a company which—

(a) is a UK resident bank or a relevant foreign bank,

(b) is a company not within paragraph (a) which is a member of a banking group and—

(i) is a UK resident investment company or a UK resident financial trading company, or

(ii) is a relevant foreign financial trading company, or

(c) is a building society or is a UK resident investment company, or a UK resident financial trading company, which is a member of the same group as a building society.

“Relevant remuneration”

4 (1) “Relevant remuneration”, in relation to a relevant banking employee of a taxable company, means anything that—

(a) constitutes earnings (within the meaning of section 62 of ITEPA 2003) in relation to the employee's employment by the taxable company as a relevant banking employee, or

(b) while not constituting earnings, constitutes a benefit provided by reason of that employment.

(2) Whether or not the relevant banking employee is chargeable to income tax in respect of anything is irrelevant in determining whether or not it is relevant remuneration.

(3) Excluded remuneration is not relevant remuneration.

"Excluded remuneration"

5 (1) "Excluded remuneration" means—

(a) anything which is regular salary or wages or a regular benefit,

(b) anything in the case of which a contractual obligation to pay or provide it to or in respect of the employee concerned arose before the beginning of the chargeable period,

(c) any shares awarded under an approved share incentive plan (within the meaning of section 488 of ITEPA 2003), or

(d) any share option granted under an approved SAYE option scheme (within the meaning of section 516 of that Act).

(2) In sub-paragraph (1)(a) "regular", in relation to salary or wages or a benefit, means so much of the amount of the salary or wages or benefit as cannot vary according to—

(a) the performance of, or of any part of—

(i) any business of the taxable company concerned, or

(ii) any business of a person connected with the taxable company,

(b) the contribution made by the employee concerned to the performance of, or of any part of, any business within paragraph (a)(i) or (ii),

(c) the performance by the employee of any of the duties of the employment, or

(d) any similar considerations.

(3) For the purposes of sub-paragraph (1)(b) a contractual obligation to pay or provide something to or in respect of the employee does not arise until—

(a) the amount to be paid or provided is fixed or is capable of becoming fixed without the exercise of discretion by any person, or

(b) the total amount of things to be paid or provided to or in respect of a number of employees including the employee is fixed or is capable of becoming fixed without the exercise of discretion by any person.

(4) A contractual obligation to pay or provide something is taken to arise for those purposes even if payment or provision of it is dependent on compliance by the employee with any conditions.

"Awarded"

6 (1) Relevant remuneration is "awarded" during the chargeable period if—

(a) a contractual obligation to pay or provide it arises during the chargeable period, or

(b) the relevant remuneration is paid or provided during the chargeable period without any such obligation having arisen during the chargeable period, but subject to sub-paragraph (3).

(2) Sub-paragraph (3)(a) of paragraph 5 applies for the purposes of sub-paragraph (1) as for the purposes of sub-paragraph (1)(b) of that paragraph.

(3) Relevant remuneration is not to be taken to be awarded during the chargeable period by virtue of sub-paragraph (1)(a) if—

(a) it is required to be paid or provided at intervals,

(b) it is to be paid or provided in respect of contribution, performance or similar considerations only for times after the end of the chargeable period, and

(c) the reduction or elimination of a liability to bank payroll tax is not the main purpose or one of the main purposes of any person in assuming the obligation to pay or provide it.

(4) Sub-paragraph (4) of paragraph 5 applies for the purposes of this paragraph as for the purposes of sub-paragraph (1)(b) of that paragraph.

"Amount" of remuneration

7 (1) Subject to sub-paragraphs (2) to (4), the amount of any relevant remuneration is—

(a) if it is money, its amount when awarded,

(b) if it is money's worth, the amount of the money's worth when awarded, or

(c) if it is a benefit not constituting earnings, the cost of providing it.

(2) Where relevant remuneration is awarded to or in respect of an employee by virtue of paragraph 6(1)(a) and its amount is not fixed when it is awarded, its amount is such as it is reasonable at that time to assume would be its amount (in accordance with sub-paragraph (1)) if and when paid or provided.

(3) Where the market value of any relevant remuneration at the time it is awarded exceeds, or would exceed, what would otherwise be its amount, its amount is that market value.

(4) Where anything constituting relevant remuneration is or would be, when awarded, subject to any restriction or restrictions, the restriction is, or restrictions are, to be ignored in arriving at its amount.

(5) For this purpose "restriction" means any condition, restriction or other similar provision which causes the value of the relevant remuneration to be less than it otherwise would be.

"The chargeable period"

8 "The chargeable period" is the period—

(a) beginning at 12.30 pm on 9 December 2009, and

(b) ending with 5 April 2010.

"Relevant banking employee"

9 (1) An employee of a taxable company is a relevant banking employee of the taxable company if—

(a) the employment in which the employee is employed by the taxable company is a banking employment, and

(b) either—
(i) the employee is resident in the United Kingdom in the tax year 2009-10, or
(ii) the duties of the banking employment are at any time in that tax year performed wholly or partly in the United Kingdom.

(2) "Banking employment" means an employment the duties of which are wholly or mainly concerned (whether directly or indirectly) with activities to which sub-paragraph (3) applies.

(3) This sub-paragraph applies to activities which are—
(a) listed regulated activities, or
(b) activities which are not listed regulated activities but consist of the lending of money or of dealing in currency or commodities as principal.

(4) "Listed regulated activity" means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)—
(a) article 5 (accepting deposits),
(b) article 14 (dealing in investments as principal),
(c) article 21 (dealing in investments as agent),
(d) article 25 (arranging deals in investments),
(e) article 40 (safeguarding and administering investments),
(f) article 53 (advising on investments), and
(g) article 61 (entering into regulated mortgage contracts).

(5) But an activity is not a listed regulated activity in relation to an employee of a taxable company if—
(a) the taxable company is an insurance company, or a member of the same group as an insurance company, and the activity is carried on wholly on behalf of the insurance company, or
(b) it—
(i) is either of the activities described in the provisions mentioned in sub-paragraph (4)(c) and (d), and
(ii) is carried on as part of, or wholly in support of, activities of the taxable company, or of a company which is a member of the same group as the taxable company, and the activities consist of acting as discretionary investment manager for clients none of which is a linked entity.

(6) An employee of a taxable company who spends no more than 60 days in the United Kingdom in the tax year 2009-10 is to be treated as not being a relevant banking employee of the taxable company.

(7) In determining for the purposes of sub-paragraph (6) whether an individual spends no more than 60 days in the United Kingdom treat a day as a day spent by the individual in the United Kingdom if (and only if) the individual is present in the United Kingdom at the end of the day.

(8) But in determining that issue for those purposes do not treat as a day spent by the individual in the United Kingdom any day on which the individual arrives in the United Kingdom as a passenger if—

(a) the individual departs from the United Kingdom on the next day, and
(b) during the time between arrival and departure the individual does not engage in activities which are to a substantial extent unrelated to the individual's passage through the United Kingdom.

Multiple employments

10 (1) The threshold of £25,000 in paragraph 1(3) applies whether or not an employee has more than one employment as a relevant banking employee with a taxable company.

(2) If relevant remuneration is awarded during the chargeable period to or in respect of a relevant banking employee by reason of the employee's employment as such by a number of associated taxable companies, the threshold in paragraph 1(3) in relation to each of the taxable companies is £25,000 divided by the number of the taxable companies.

(3) For this purpose taxable companies are associated if—
(a) one of them is under the control of the other, or
(b) one of them is under the control of a third person who controls or is under the control of the other.

Payments etc to intermediaries

11 (1) This paragraph applies where—
(a) an individual personally performs banking services for a taxable company,
(b) the banking services are provided not under a contract directly between the individual and the taxable company but under arrangements involving any other person ("the intermediary"), and
(c) the circumstances are such that, if the banking services were provided under a contract directly between the taxable company and the individual, the individual would be a relevant banking employee of the taxable company.

(2) The individual is to be regarded as a relevant banking employee of the taxable company.

(3) Anything done by the intermediary in relation to the individual which, if the banking services were provided under a contract directly between the taxable company and the individual, would be regarded as the award of relevant remuneration during the chargeable period to or in respect of the individual (as a relevant banking employee) by reason of the employee's employment as a relevant banking employee is to be so regarded.

(4) "Banking services" means services which are wholly or mainly concerned (whether directly or indirectly) with activities which are activities to which paragraph 9(3) applies.

Arrangements for future payments etc

12 (1) This paragraph applies where—
(a) arrangements are made during the chargeable period by reason of an employee's employment as a relevant banking employee of a taxable company,

(b) the arrangements make provision under which money may be paid, or any money's worth or other benefit provided, to or in respect of the employee in accordance with the arrangements, and

(c) were the money so paid, or the money's worth or other benefit so provided, during the chargeable period, it would be relevant remuneration awarded to or in respect of the employee during the chargeable period.

(2) The making of the arrangements is to be regarded as the awarding of relevant remuneration to or in respect of the relevant banking employee by reason of the employment; and the amount of the relevant remuneration is to regarded as the amount of any money which it is reasonable to assume will be paid, and any money's worth or other benefit which it is reasonable to assume will be provided, as mentioned in sub-paragraph (1).

Loans

13 (1) This paragraph applies where—

(a) at any time during the chargeable period a relevant loan is provided to or in respect of a relevant banking employee of a taxable company by reason of the employee's employment as a relevant banking employee otherwise than pursuant to a contractual obligation arising before the chargeable period, or

(b) at any time during the chargeable period there arises a contractual obligation to provide a relevant loan to or in respect of the employee by reason of the employee's employment as a relevant banking employee of the taxable company.

(2) A loan is a "relevant" loan if the main purpose, or one of the main purposes, of providing it, or undertaking to provide it, is the reduction or elimination of a liability to bank payroll tax or any other tax or national insurance contributions.

(3) The loan is to be regarded as relevant remuneration awarded during the chargeable period to or in respect of the relevant banking employee by reason of the employee's employment as a relevant banking employee; and the amount of the relevant remuneration is to be regarded as the amount which is loaned or (where the amount of the loan is not fixed) the amount which it is reasonable to assume will be loaned.

(4) A contractual obligation to provide a relevant loan is taken to arise for the purposes of this paragraph even if provision of it is dependent on compliance by the relevant banking employee with any conditions.

Anti-avoidance

14 (1) This paragraph applies where—

(a) relevant arrangements are entered into by one or more persons during the chargeable period, and

(b) the main purpose, or one of the main purposes, of the person, or any of the persons, in entering into the relevant arrangements is a relevant tax avoidance purpose.

(2) "Relevant arrangements" means arrangements involving either or both of the following—

(a) the making of a payment of money, or the provision of any money's worth or other benefit, otherwise than during the chargeable period, and

(b) the giving otherwise than in the form of relevant remuneration of any reward which equates in substance to relevant remuneration.

(3) A "relevant tax avoidance purpose" is the reduction or elimination of a liability to bank payroll tax which would exist if—

(a) in a case within paragraph (a) of sub-paragraph (2), the money were paid, or the money's worth or other benefit provided, during the chargeable period, or

(b) in a case within paragraph (b) of that sub-paragraph, the reward were given in the form of relevant remuneration.

(4) Liability to bank payroll tax is to be determined as it would have been if—

(a) in a case within paragraph (a) of sub-paragraph (2), the money were paid, or the money's worth or other benefit provided, during the chargeable period, or

(b) in a case within paragraph (b) of that sub-paragraph, the reward were given in the form of relevant remuneration.

No deduction in computing profits

15 No amount of bank payroll tax is to be taken into account in calculating profits or losses for the purposes of income tax or corporation tax.

PART 2 U.K.

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.

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.

(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,

(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.

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.

(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.

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.

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.

PART 3 U.K.

DEFINITIONS

"UK resident bank" and "relevant foreign bank"

43 (1) "UK resident bank" means a company which—

(a) is resident in the United Kingdom,
(b) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
(c) is a person—
(i) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 44(1)(a), or
(ii) which is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in paragraph 44(1)(b) to (f) and which meets the capital resources condition,

(d) carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of trade, and
(e) is not an excluded company.

(2) "UK resident bank" also includes a company which—
(a) meets the conditions in sub-paragraph (1)(a) and (e), and
(b) is a member of a partnership which meets the conditions in sub-paragraph (1)(b) to (d).

(3) "Relevant foreign bank" means a company which—
(a) is not resident in the United Kingdom,
(b) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act),
(c) is a person which carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom and—
(i) whose activities include the relevant regulated activity described in the provision mentioned in paragraph 44(1)(a), or
(ii) which is both a BIPRU 730k firm and a full scope BIPRU investment firm, whose activities consist wholly or mainly of any of the relevant regulated activities described in the provisions mentioned in paragraph 44(1)(b) to (f) and which meets the capital resources condition,
(d) carries on that relevant regulated activity, or those relevant regulated activities, wholly or mainly in the course of that trade, and
(e) is not an excluded company.

(4) "Relevant foreign bank" also includes a company which—
(a) meets the conditions in sub-paragraph (3)(a) and (e), and
(b) is a member of a partnership which meets the conditions in sub-paragraph (1)(b) to (d).

"Relevant regulated activity", "capital resources condition", "excluded company", "asset management activities", "linked entity" etc

44 (1) "Relevant regulated activity" means an activity which is a regulated activity for the purposes of FISMA 2000 by virtue of any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544)—
(a) article 5 (accepting deposits),
(b) article 14 (dealing in investments as principal),
(c) article 21 (dealing in investments as agent),
(d) article 25 (arranging deals in investments),
(e) article 40 (safeguarding and administering investments), and
(f) article 61 (entering into regulated mortgage contracts).

(2) "The capital resources condition" is that the company has a capital resources requirement of at least £100 million.

(3) But if the company is a member of a group, "the capital resources condition" is that the company and—
(a) any other companies which—
(i) are members of the group,

(ii) meet either of the conditions in sub-paragraph (4),

(iii) are not excluded companies, and

(iv) are not members of any partnership within paragraph (b), and

(b) any partnership—

(i) the members of which are or include one or more companies that are members of the group and not excluded companies, and

(ii) which meets either of those conditions,

have (in aggregate) capital resources requirements of at least that amount.

(4) The conditions referred to in sub-paragraph (3) are that the company or partnership—

(a) is both a BIPRU 730k firm and a full scope BIPRU investment firm, or

(b) is a company or partnership which carries on in the United Kingdom activities including the relevant regulated activity described in the provision mentioned in sub-paragraph (1)(a).

(5) For the purposes of sub-paragraphs (2) and (3) the capital resources requirement of a company or a partnership is that as at the end of the last period of account of the company or partnership ending no later than the end of the chargeable period.

(6) In determining whether the company is a UK resident bank or a relevant foreign bank by virtue of paragraph 43(2) or (4), the references in sub-paragraph (2) to the company are to the partnership.

(7) If any company or partnership whose capital resources may be material for the purposes of sub-paragraph (2) or (3) prepares its accounts in a currency other than sterling, the amount of its capital resources at the end of the period of account mentioned in that sub-paragraph is to be translated into its sterling equivalent by reference to the average spot rate of exchange on the day on which that period ends.

(8) If any company whose capital resources may be material for the purposes of sub-paragraph (2) or (3) carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom, its capital resources are to be determined as they would be for the purposes of corporation tax (see Chapter 4 of Part 2 of CTA 2009).

(9) "Excluded company" means a company which is—

(a) an insurance company or an insurance special purpose vehicle,

(b) a company which is a member of a group and does not carry on any relevant regulated activities otherwise than on behalf of an insurance company or insurance special purpose vehicle which is a member of the same group,

(c) a company which does not carry on any relevant regulated activities otherwise than as the manager of a pension scheme,

(d) an investment trust (within the meaning given by section 1158 of CTA 2010),

(e) a company which does not carry on any relevant regulated activities other than asset management activities,

(f) an exempt BIPRU commodities firm,

(g) a company which does not carry on any relevant regulated activities otherwise than for the purpose of trading in commodities or commodity derivatives,

(h) a company which does not carry on any relevant regulated activities otherwise than for the purpose of dealing in contracts for differences as principal with persons all or all but an insignificant proportion of whom are retail clients or of dealing in contracts for differences with another person to enable the company or other person to deal in contracts for differences as principal with such persons,

(i) a society incorporated under the Friendly Societies Act 1992,

(j) a society registered as a credit union under the Industrial and Provident Societies Act 1965 or the Credit Unions (Northern Ireland) Order 1985 (S.I. 1985/1205 (NI 12)), or

(k) a building society.

(10) "Asset management activities" means activities which consist (or, if they were carried on in the United Kingdom, would consist) of any or all of the following—

(a) acting as the operator of a collective investment scheme (within the meaning of Part 17 of FISMA 2000: see sections 235 and 237 of that Act),

(b) acting as a discretionary investment manager for clients none of which is a linked entity, and

(c) acting as an authorised corporate director.

(11) "Linked entity", in relation to a company ("C"), means—

(a) a member of the same group as C,

(b) a company in which a company which is a member of the same group as C has a major interest (within the meaning of Part 5 of CTA 2009: see section 473 of that Act), or

(c) a partnership the members of which include a company—

(i) which is a member of the same group as C, and

(ii) whose share of the profits or losses of a trade carried on by the partnership for an accounting period of the partnership any part of which falls within the chargeable period is at least a 40% share (see Part 17 of CTA 2009 for provisions about shares of partnership profits and losses).

(12) The following have the meanings given in the Handbook of Rules and Guidance made by the Financial Services Authority (as that Handbook has effect from time to time)—

"authorised corporate director",
"BIPRU 730k firm",
"capital resources requirement",
"contracts for differences",
"discretionary investment manager",
"exempt BIPRU commodities firm",
"full scope BIPRU investment firm",
"pension scheme",
"principal", and
"retail clients".

(13) A company which would be a BIPRU 730k firm and a full scope BIPRU investment firm by virtue of activities carried on in the United Kingdom but for the fact that its registered office (or, if it does not have a registered office, its head office) is not in the United Kingdom is to be treated as being one.

(14) The Treasury may by order amend this paragraph.

(15) An order under this paragraph may be made so as to have effect in relation to any time after the beginning of the chargeable period.

(16) An order under this paragraph is to be made by statutory instrument.

(17) An order under this paragraph may not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

"Member of a banking group"

45 (1) A company is a "member of a banking group" at any time if—

(a) it is within sub-paragraph (2) at that time, or

(b) it was within that sub-paragraph immediately before the chargeable period.

(2) A company is within this sub-paragraph if—

(a) it is a member of a group,

(b) any of conditions A to C is met, and

(c) the group does not meet the exempt activities test.

(3) Condition A is that the principal company of the group is a UK resident bank or a relevant foreign bank.

(4) Condition B is that—

(a) the principal company of the group is a company which is not resident in the United Kingdom but which (if it were so resident) would be a UK resident bank, or

(b) the principal company of the group is a company which is not resident in the United Kingdom, and is a member of a partnership which is not so resident, but which (if both the company and the partnership were so resident) would be a UK resident bank,

and (in either case) any member of the group is a UK resident bank or a relevant foreign bank.

(5) Condition C is that—

(a) the principal company is the holding company of another company, and

(b) if that other company were the principal company of the group, condition A or B would be met.

(6) For the purposes of condition C a company ("H") is a "holding company" of another company ("S") if—

(a) H is an investment company, and

(b) S is—

(i) an effective 51% subsidiary of H, and

(ii) not an effective 51% subsidiary of any company which is not an investment company.

(7) A group meets the exempt activities test if at least 90% of the trading income of the group for the relevant period is derived from exempt activities.

(8) For this purpose—

"exempt activities" means—

(a) insurance activities, asset management activities and related activities, and

(b) activities carried on by a company which is not a financial trading company (or a company which would be a financial trading company if it were resident in the United Kingdom) other than lending activities or dealing on own account,

"the relevant period", in relation to a group, means the last period of account of the group ending no later than the end of the chargeable period, and

"the trading income of the group" for the relevant period is to be calculated in accordance with paragraph 46.

(9) In sub-paragraph (8)—

"insurance activities" means—

(a) the effecting or carrying out of contracts of insurance by a regulated insurer, and

(b) investment business that arises directly from activities falling within paragraph (a);

"lending activities" means—

(a) acceptance of deposits or other repayable funds,

(b) lending of money, including consumer credit, mortgage credit, factoring (with or without recourse) and financing of commercial transactions (including forfeiting),

(c) finance leasing (as lessor),

(d) issuing and administering means of payment,

(e) provision of guarantees or commitments to provide money,

(f) money transmission services,

(g) provision of alternative finance arrangements, and

(h) other activities carried on in connection with activities falling within any of paragraphs (a) to (g);

"related activities" means—

(a) activities which are ancillary to insurance activities or asset management activities of any company which is a member of the group (whether or not the company carrying on the insurance activities or asset management activities), and

(b) activities which would not be carried on but for such insurance activities or asset management activities being carried on,

but does not include dealing on own account.

(10) In sub-paragraph (9)—

"activities" includes buying, holding, managing and selling assets;

"regulated insurer", in relation to a group, means a member of the group that—

(a) is authorised under the law of any territory to carry on insurance business, or

(b) is a member of a body or organisation which is so authorised.

(11) A company which is a member of a banking group ceases to be a member of a banking group when it ceases to be within sub-paragraph (2), but only if it ceases to be within that provision as a result of—
(a) an arm's length transaction undertaken for wholly commercial purposes, or
(b) following a recommendation of a relevant regulatory body.

(12) For the purposes of sub-paragraph (11) obtaining a tax advantage is not a commercial purpose.

(13) "Tax advantage" means—
(a) a relief from tax or increased relief from tax (relief here including a tax credit),
(b) a repayment of tax or increased repayment of tax,
(c) the avoidance or reduction of a charge to tax or an assessment to tax (obtained in any way), or
(d) the avoidance of a possible assessment to tax (so obtained),

and, for this purpose, "tax" includes bank payroll tax and any other tax.

(14) In sub-paragraph (11) "relevant regulatory body" means—
(a) the Financial Services Authority, or
(b) a body discharging functions under the law of a country or territory outside the United Kingdom corresponding to functions discharged by the Financial Services Authority.

(15) In this paragraph "dealing on own account" has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (see Article 4(1)(6)).

"The trading income of the group" for the relevant period

46 (1) This paragraph applies for calculating the "trading income of the group" for the relevant period for the purposes of paragraph 45.

(2) The trading income for the group for the relevant period is the aggregate of—
(a) the gross income calculated in accordance with sub-paragraph (3), and
(b) the net income calculated in accordance with sub-paragraph (4).

(3) The income referred to in sub-paragraph (2)(a) is the gross income—
(a) arising from the activities of the group (other than net-basis activities), and
(b) disclosed as such in the financial statements of the group,

without taking account of any deductions (whether for expenses or otherwise).

(4) The income referred to in sub-paragraph (2)(b) is the net income arising from the net-basis activities of the group that—
(a) is accounted for as such under international accounting standards or in accordance with practice which is generally accepted accounting practice in the territory in which the principal company of the group is resident, or
(b) would be accounted for as such if income arising from such activities were accounted for under such standards or in accordance with such practice.

(5) In this paragraph "net-basis activities" means activities normally reported on a net basis in financial statements prepared in accordance with such standards or practice.

"Investment company" etc

47 (1) "Investment company"—

(a) means a company whose business consists wholly or mainly of, and the principal part of whose income is derived from, the making of investments, and

(b) also includes any savings bank or other bank for savings.

(2) "UK resident investment company" means an investment company which is resident in the United Kingdom.

"Financial trading company" etc

48 (1) "Financial trading company" means a company which—

(a) is an authorised person for the purposes of FISMA 2000 (see section 31 of that Act), or

(b) is not within paragraph (a) but carries on a trade consisting wholly or partly in dealing in securities.

(2) "UK resident financial trading company" means a financial trading company which is resident in the United Kingdom.

(3) "Relevant foreign financial trading company" means a company which meets conditions A and B.

(4) Condition A is that the company—

(a) is not resident in the United Kingdom, and

(b) carries on a trade in the United Kingdom through a permanent establishment in the United Kingdom.

(5) Condition B is that, disregarding any activities of the company other than those carried on through that permanent establishment, the company is a financial trading company.

(6) In this paragraph "securities" includes—

(a) shares,

(b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of that Act, and

(c) in the case of a company with no share capital, interests in the company possessed by members of the company.

Other interpretative provisions

49 (1) In this Schedule—

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

"benefit" includes a facility of any kind;

"building society" means a building society within the meaning of the Building Societies Act 1986;

"the Commissioners" means the Commissioners of Her Majesty's Revenue and Customs;

"contract of insurance" has the meaning given by section 431(2) of ICTA;

"control" has the meaning given by section 995 of ITA 2007;

"employment", "employee" and "employer" have the same meaning as in the employment income Parts of ITEPA 2003 (see sections 4 and 5 of that Act);

"enactment" includes an enactment or instrument (whenever passed or made);

"HMRC" means Her Majesty's Revenue and Customs;

"insurance company" and "insurance special purpose vehicle" have the meaning given by section 431(2) of ICTA;

"market value" has the same meaning it has for the purposes of TCGA 1992 by virtue of Part 8 of that Act;

"money's worth" has the meaning given by section 62(3) of ITEPA 2003;

"partnership" includes—

(a) a limited liability partnership, and

(b) an entity established under the law of a territory outside the United Kingdom of a similar character to a partnership (and "member", in relation to a partnership, is to be read accordingly);

"period of account" and "permanent establishment" have the meaning given by section 1119 of CTA 2010;

"the tax year 2009-10" has the same meaning as in the Income Tax Acts (see section 989 of ITA 2007).

(2) Section 170(2) to (11) of TCGA 1992 ("group", "principal company", "effective 51% subsidiary", "company" etc) has effect for the interpretation of this Schedule as for the interpretation of sections 171 to 181 of that Act.

(3) Section 993 of ITA 2007 (meaning of "connected" persons) applies for the purposes of this Schedule.

(4) For the purposes of this Schedule the territory in which a company is resident is to be determined as for the purposes of the Corporation Tax Acts.

[F1]SCHEDULE 2 U.K.

. . . .

Textual Amendments

F1 Sch. 2 repealed (10.12.2010) by The Finance Act 2010, Section 23 and Schedule 2 (High Income Excess Relief Charge) (Repeal) Order 2010 (S.I. 2010/2938), arts. 1, **2**

SCHEDULE 3 U.K.

Section 24

SIDEWAYS RELIEF ETC

Amendments of Chapter 2 of Part 4 of ITA 2007

1 Chapter 2 of Part 4 of ITA 2007 (trade losses) is amended as follows.

2 In section 60(1)(c) (overview of Chapter), for "(see sections 75" substitute " and capital gains relief (see sections 74ZA ".

3 In section 64(8) (deduction of losses from general income)—
(a) in paragraph (ba), for "74A" substitute " 74ZA ",
(b) at the end of paragraph (c), insert " and ", and
(c) omit paragraph (e).

4 In section 72(5) (relief for individuals for losses in first 4 years of trade)—
(a) in paragraph (ba), for "74A" substitute " 74ZA ",
(b) at the end of paragraph (c), insert " and ", and
(c) omit paragraph (e).

5 Before section 74A insert—

No relief for tax-generated losses

"74ZA (1) This section applies if—
(a) during a tax year a person carries on (alone or in partnership) a trade, profession or vocation ("the relevant activity"),
(b) the person makes a loss in the relevant activity in that tax year, and
(c) the loss arises directly or indirectly in consequence of, or otherwise in connection with, relevant tax avoidance arrangements.

(2) No sideways relief or capital gains relief may be given to the person for the loss (but subject to subsection (5)).

(3) In subsection (1) "relevant tax avoidance arrangements" means arrangements—
(a) to which the person is a party, and
(b) the main purpose, or one of the main purposes, of which is the obtaining of a reduction in tax liability by means of sideways relief or capital gains relief.

(4) In subsection (3) "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) This section has no effect in relation to any loss that derives wholly from qualifying film expenditure (see section 74D).

(6) For the purposes of this section—
(a) capital gains relief is, in relation to a loss, the treatment of a loss as an allowable loss by virtue of section 261B of TCGA 1992 (use of trading loss as a CGT loss), and
(b) capital gains relief is given for a loss when it is so treated."

6 Omit section 74B (no relief for tax-generated losses in case of non-active individuals carrying on trade).

7 (1) Section 74C (meaning of "non-active capacity" for purposes of sections 74A and 74B etc) is amended as follows.

(2) In subsection (1), for "sections 74A and 74B" substitute " section 74A ".

(3) In the heading, for "**sections 74A and 74B**" substitute " **section 74A** ".

8 (1) Section 74D (meaning of "qualifying film expenditure" for purposes of sections 74A and 74B) is amended as follows.

(2) In subsections (1) and (4), for "74A and 74B" substitute " 74ZA and 74A ".

(3) In the heading, for "**74A and 74B**" substitute " **74ZA and 74A** ".

9 Omit section 81 (dealings in commodity futures).

Other amendments

10 In FA 2009, in Schedule 6, in paragraph 1(11)—

(a) in paragraph (b), for "74B" substitute " 74ZA ",

(b) at the end of paragraph (c), insert " and ", and

(c) omit paragraph (e) (and the "and" before it).

Commencement

11 (1) The amendments made by this Schedule have effect in relation to a loss if it arises directly or indirectly in consequence of, or otherwise in connection with—

(a) arrangements which are entered into on or after 21 October 2009, or

(b) any transaction forming part of arrangements which is entered into on or after that date.

(2) But those amendments do not have effect where the arrangements are, or any such transaction is, entered into pursuant to an unconditional obligation in a contract made before that date.

(3) "An unconditional obligation" means an obligation which may not be varied or extinguished by the exercise of a right (whether or not under the contract).

SCHEDULE 4 U.K.

Section 26

CAPITAL ALLOWANCE BUYING

1 Part 2 of CAA 2001 (plant and machinery allowances) is amended as follows.

2 After Chapter 16 insert—

"CHAPTER 16A U.K.

AVOIDANCE INVOLVING ALLOWANCE BUYING

Introduction

Scope of Chapter

212A This Chapter provides for restrictions on the ways in which effect may be given to an allowance in certain circumstances where there has been a qualifying change in relation to a company ("C").

Where Chapter applies

212B (1) This Chapter applies where—

(a) C carries on a trade ("the relevant trade") (whether or not in partnership with another person or other persons),

(b) there is a qualifying change in relation to C on any day ("the relevant day"),

(c) C, or (where the relevant trade is carried on in partnership) the partnership ("P"), has a relevant excess of allowances in relation to the relevant trade, and

(d) the qualifying change has an unallowable purpose.

(2) Sections 212C to 212I specify when there is a qualifying change in relation to C on the relevant day.

(3) Sections 212J to 212L specify when C or P has a relevant excess of allowances in relation to the relevant trade.

(4) Section 212M specifies when the qualifying change has an unallowable purpose.

(5) Sections 212N to 212S make provision about what happens when this Chapter applies.

Qualifying change

When there is qualifying change in relation to C

212C (1) There is a qualifying change in relation to C on the relevant day if one or more of conditions A to D is met.

(2) Condition A is that—

(a) the principal company or companies of C at the beginning of the relevant day is not, or are not, the same as at the end of that day, or

(b) there is no principal company of C at the beginning of the relevant day but there is one, or are more than one, at the end of the relevant day.

(3) Condition B is that—

(a) any principal company of C is a consortium principal company ("CPC"), and
(b) CPC's ownership proportion at the end of the relevant day is more than at the beginning of the relevant day.

(4) Condition C is that on the relevant day—
(a) C ceases to carry on the whole or part of the relevant trade, and
(b) it begins to be carried on in partnership by two or more companies,

in circumstances in which Chapter 1 of Part 22 of CTA 2010 (transfers of trade without change of ownership) applies in relation to the transfer of the relevant trade.

(5) Condition D is that—
(a) the relevant trade is, at the beginning of the relevant day, carried on by C in partnership, and
(b) C's relevant percentage share in the relevant trade at the end of the relevant day is less than at the beginning of the relevant day (or is nil).

Guide to sections explaining section 212C

212D (1) Section 212E explains—
(a) what are principal companies of C, and
(b) which are consortium principal companies of C,

for the purposes of section 212C(2) and (3).

(2) Section 212F explains—
(a) when a company is owned by a consortium, and
(b) who are the members of the consortium,

for the purposes of section 212E.

(3) Section 212G explains the meaning of "qualifying 75% subsidiary" for the purposes of sections 212E and 212F.

(4) Section 212H explains the meaning of "ownership proportion" in section 212C(3).

(5) Section 212I explains the meaning of "relevant percentage share" in section 212C(5).

Principal companies

212E (1) A company ("U") is a principal company of C if—
(a) C is a qualifying 75% subsidiary of U, and
(b) U is not a qualifying 75% subsidiary of another company.

(2) A company ("V") is a principal company of C if—
(a) C is a qualifying 75% subsidiary of U,
(b) U is a qualifying 75% subsidiary of V, and
(c) V is not a qualifying 75% subsidiary of another company.

(3) If V is a qualifying 75% subsidiary of another company ("W"), W is a principal company of C unless W is a qualifying 75% subsidiary of another company, and so on.

(4) A company ("X") is a principal company of C if—

(a) C is owned by a consortium of which X is a member, or

(b) C is a qualifying 75% subsidiary of a company owned by a consortium of which X is a member,

and X is not a qualifying 75% subsidiary of another company.

(5) A company ("Y") is a principal company of C if—

(a) C is owned by a consortium of which X is a member, or

(b) C is a qualifying 75% subsidiary of a company owned by a consortium of which X is a member,

and X is a qualifying 75% subsidiary of Y but Y is not a qualifying 75% subsidiary of another company.

(6) If Y is a qualifying 75% subsidiary of another company ("Z"), Z is a principal company of C unless Z is a qualifying 75% subsidiary of another company, and so on.

(7) A company that is a principal company of C by virtue of any of subsections (4) to (6) is a consortium principal company of C.

When company is owned by consortium and consortium members

212F (1) This section defines what a company being owned by, or a member of, a consortium means for the purposes of section 212E.

(2) A company is owned by a consortium if—

(a) it is not a qualifying 75% subsidiary of another company,

(b) at least 75% of its ordinary share capital is beneficially owned between them by other companies, and

(c) none of those other companies owns less than 5% of that capital.

(3) Those other companies are the members of the consortium.

Qualifying 75% subsidiaries

212G (1) For the purposes of sections 212E and 212F a company ("the subsidiary company") is a qualifying 75% subsidiary of another company ("the parent company") if condition 1 or 2 is met and condition 3 is met.

(2) Condition 1 is that—

(a) the subsidiary company has ordinary share capital, and

(b) the subsidiary company is a 75% subsidiary of the parent company (see section 1154(3) of CTA 2010).

(3) Condition 2 is that—

(a) the subsidiary company does not have ordinary share capital, and

(b) the parent company has control of the subsidiary company.

(4) Condition 3 is that the parent company—

(a) is beneficially entitled to at least 75% of any profits available for distribution to equity holders of the subsidiary company, and

(b) would be beneficially entitled to at least 75% of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(5) Chapter 6 of Part 5 of CTA 2010 (equity holders and profits or assets available for distribution) applies for the purposes of subsection (4) as that Chapter applies for the purposes of section 151(4)(a) and (b) of that Act (meaning of "75% subsidiary").

(6) But in a case where the subsidiary company does not have ordinary share capital, Chapter 6 of Part 5 of that Act applies for those purposes as if the members of that company were equity holders of that company for the purposes of that Chapter.

Ownership proportion

212H (1) For the purposes of section 212C(3) CPC's "ownership proportion" is the lowest of—

(a) the percentage of the ordinary share capital of C that is beneficially owned by CPC,

(b) the percentage to which CPC is beneficially entitled of any profits available for distribution to equity holders of C, and

(c) the percentage to which CPC would be beneficially entitled of any assets of C available for distribution to its equity holders on a winding-up.

(2) Chapter 6 of Part 5 of CTA 2010 applies for the purposes of subsection (1) as that Chapter applies for the purposes of section 143(3)(b) and (c) (condition 1: surrendering company owned by consortium) and section 144(3)(b) and (c) (condition 1: claimant company owned by consortium) of that Act.

(3) But in a case where the subsidiary company does not have ordinary share capital, Chapter 6 of Part 5 of that Act applies for those purposes as if the members of that company were equity holders of that company for the purposes of that Chapter.

Relevant percentage share

212I (1) For the purposes of section 212C(5) C's "relevant percentage share" is C's percentage share in the profits or losses of the trade.

(2) For this purpose C's percentage share in the profits or losses of a trade at any time is determined on a just and reasonable basis.

(3) In making that determination regard must be had, in particular, to any matter that would be taken into account in determining under section 1262 of CTA 2009 (but without regard to sections 1263 and 1264 of that Act) the company's share at that time in the profits or losses of the trade.

Relevant excess of allowances

Relevant excess of allowances

212J (1) C or P has a relevant excess of allowances in relation to the relevant trade if—

$$RTWDV > BSV$$

(2) Section 212K defines RTWDV and section 212L defines BSV.

(3) References in this Chapter to plant and machinery do not include excluded plant and machinery.

(4) Plant and machinery is "excluded plant and machinery" if—

(a) expenditure incurred on the provision of it is not, as a result of section 34A, qualifying expenditure for the purposes of this Part, or

(b) it is, as a result of section 67, treated for the purposes of this Part as owned otherwise than by C or P.

Relevant tax written-down value

212K (1) RTWDV is the relevant tax written-down value and is to be found by adding together amounts 1 and 2.

(2) Amount 1 is the total amount of any unrelieved qualifying expenditure in respect of plant and machinery contained in—

(a) single asset pools,

(b) class pools, or

(c) the main pool,

which is available to be carried forward (in accordance with section 59) from the old period and used in calculating the profits of the relevant trade.

(3) Amount 2 is the total of any qualifying expenditure incurred on the provision of a ship for the purposes of the relevant trade which, at the end of the old period, is unrelieved by virtue of notice having been given under section 130.

(4) For the purposes of this Part the amount of unrelieved qualifying expenditure contained in any pool which is available to be carried forward (in accordance with section 59) from the old period and used in calculating the profits of the relevant trade is to be calculated on the assumptions—

(a) that any qualifying expenditure that could have been (but was not) allocated to the pool before the end of the old period had been so allocated at the end of the old period,

(b) that any qualifying expenditure prevented from being allocated to the pool by section 58(5) had been so allocated at the end of the old period, and

(c) that any transaction taking place on the relevant day that has the effect of reducing the amount of unrelieved qualifying expenditure in the pool had not taken place.

(5) Where condition C in section 212C is met—

(a) references in subsection (2) to any unrelieved qualifying expenditure in respect of plant and machinery contained in a pool which is available to be carried forward (in accordance with section 59) from the old period and used in calculating the profits of the relevant trade, and

(b) the reference in subsection (3) to any qualifying expenditure incurred on the provision of a ship for the purposes of the relevant trade which, at the end of the old period, is unrelieved by virtue of notice having been given under section 130,

are to what it would have been but for the qualifying change.

(6) In this section "the old period" means the period which is the old period for the purposes of section 212O (or would be if this Chapter applied): see section 212N(3).

(7) The plant and machinery in respect of which there is unrelieved qualifying expenditure such as is mentioned in subsection (2), or qualifying expenditure such as is mentioned in subsection (3), is referred to in the following provisions as "the relevant plant and machinery".

Balance sheet value

212L (1) BSV is the balance sheet value of the relevant plant and machinery and is to be found by adding together the amounts (if any) which would be shown in respect of it in the appropriate balance sheet of C or P.

(2) For this purpose the amounts shown in the appropriate balance sheet in respect of the relevant plant or machinery are—

(a) the amounts shown in that balance sheet as the net book value (or carrying amount) in respect of it, and

(b) the amounts shown in that balance sheet as the net investment in respect of finance leases of it.

(3) If—

(a) any of the relevant plant or machinery is a fixture in any land, and

(b) the amount which falls (or would fall) to be shown in the appropriate balance sheet as the net book value (or carrying amount) of the land would include an amount in respect of the fixture,

the amount of the net book value (or carrying amount) in respect of the fixture is determined on a just and reasonable basis.

(4) If—

(a) any of the relevant plant or machinery is subject to a finance lease, and

(b) any land or asset which is not plant or machinery is subject to that lease,

the amount of the net investment in respect of the finance lease of that plant or machinery is determined on a just and reasonable basis.

(5) In this section any reference to any amount shown in the appropriate balance sheet of C or P is the amount which, assuming that a balance sheet of C or P were drawn up in accordance with subsection (6), would fall to be shown in that balance sheet.

(6) A balance sheet is drawn up in accordance with this subsection if it is drawn up in accordance with generally accepted accounting practice so as to reflect the position as at the beginning of the relevant day but adjusted to reflect the disposal of any of the relevant plant or machinery which is disposed of on the relevant day.

(7) In this section—

"finance lease" means a lease which, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as a finance lease or loan in accounts of C or P;

"fixture"—

(a) means any plant or machinery that is so installed or otherwise fixed in or to a building or other description of land as to become, in law, part of that building or other land, and

(b) includes any boiler or water-filled radiator installed in a building as part of a space or water heating system.

Unallowable purpose

Unallowable purpose

212M(1) The qualifying change has an unallowable purpose if the main purpose, or one of the main purposes, of change arrangements is to obtain a relevant tax advantage (for any person).

(2) "Change arrangements" means any arrangements made to bring about, or otherwise connected with, the qualifying change; and "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(3) "Obtain a relevant tax advantage" means become entitled to a reduction in profits, or an increase in losses, for the purposes of corporation tax in consequence of a claim to allowances in respect of qualifying expenditure in respect of the relevant plant and machinery or qualifying expenditure within section 212K(3).

What happens when Chapter applies

Old and new accounting periods

212N(1) The accounting period of C which is current on the relevant day ends with that day and a new accounting period of C begins with the following day (but subject to subsection (2)).

(2) In a case in which condition A, B or D in section 212C is met and the relevant trade was, at the beginning of the relevant day, carried on by C in partnership

with another company or other companies subsection (1) does not apply but—

(a) the period which, for the purposes of Part 17 of CTA 2009, is the accounting period of the partnership current on the relevant day ends with that day, and

(b) there begins with the following day a new accounting period—

(i) of the partnership, or

(ii) where condition D is met and C's relevant percentage share in the relevant trade is nil after the qualifying change, of the company or partnership by which the relevant trade is carried on after the relevant change.

(3) For the purposes of section 212O "the old period" means the accounting period of C or the partnership in which C carries on the relevant trade which ends with the relevant day.

(4) For the purposes of section 212P "the new period" means the accounting period—

(a) of C or that partnership, or

(b) where condition D is met and C's relevant percentage share in the relevant trade is nil after the qualifying change, of the company or partnership by which the relevant trade is carried on after the relevant change,

which begins with the following day.

When there is excess of allowances in pool: amount of excess

212O (1) Section 212P has effect where C or P has an excess of allowances in any single asset pool, any class pool or the main pool at the end of the old period; and a pool in the case of which there is an excess of allowances is referred to in this section and section 212P as a "relevant pool".

(2) For the purposes of this section C or P has an excess of allowances in a pool if—

$$PA > BSVP$$

(3) In this section and section 212Q—

PA, in relation to a pool, is the amount specified in section 212K(2) in relation to the pool, and

BSVP, in relation to a pool, is so much of BSV as, on a just and reasonable apportionment, it is appropriate to attribute to the pool.

(4) For the purposes of section 212P the amount of the excess of allowances in relation to any relevant pool ("the relevant pool in question") is the difference between PA and BSVP.

(5) But if, in relation to any other pool—

$$BSVP > PA$$

what would otherwise be the amount of the excess of allowances in relation to the relevant pool in question for the purposes of section 212P is reduced by so much of the difference between BSVP and PA as is not taken into account under this subsection in relation to another relevant pool or under section 212Q(8).

Effect of excess of allowances on pools

212P(1) The unrelieved qualifying expenditure in each relevant pool is to be taken to be reduced at the beginning of the new period by the amount of the excess of allowances in relation to the pool.

(2) The amount of the excess of allowances is to be treated from the beginning of the new period as if it were qualifying expenditure in a new pool of the same description as the relevant pool (and so subject to the same provisions of this Part, other than this Chapter).

(3) Where, following the qualifying change, a person ceases to carry on a trade (or part of a trade) and C begins to carry on (whether or not in partnership) the activities of that trade (or part of a trade) as part of its trade, for the purposes of claiming any allowance in respect of qualifying expenditure in the new pool the carrying on of those activities by C is to be regarded as the carrying on of a separate trade.

(4) A loss attributable to an allowance claimed in respect of qualifying expenditure in the new pool may not be set off under section 37 of CTA 2010 (trade loss relief against total profits of same or earlier accounting period) otherwise than against the profits of a qualifying activity carried on by C, or any company that is a member of P, at the beginning of the relevant day.

(5) And the amount of such a loss which may be so set off by any person is not to exceed the amount of the loss which would have been available for such set off by the person but for the qualifying change.

(6) A loss attributable to an allowance claimed in respect of qualifying expenditure in the new pool may not be set off by way of group relief in accordance with Part 5 of CTA 2010 (surrender of losses by way of group relief) by a company ("the claimant company") unless it would have been available for such set off but for the qualifying change.

(7) And the amount of such a loss which is available for such set off by the claimant company is not to exceed the amount of the loss which would have been available for such set off by the claimant company but for the qualifying change.

(8) Where any activity not carried on by C, or a company that is a member of P, at the beginning of the relevant day would otherwise be regarded for the purposes of corporation tax as forming part of a qualifying activity carried on by C or the member of P at that time it is not to be so regarded for the purposes of subsection (4).

(9) In a case in which condition C in section 212C is met, the references in subsections (1) and (2) to the beginning of the new period are to the time of the qualifying change (and section 948 of CTA 2010 has effect subject to this section).

When there are postponed capital allowances

212Q(1) This section has effect where C or P has relevant postponed capital allowances.

(2) C or P has relevant postponed capital allowances if amount 2 in section 212K(3) is an amount other than nil.

(3) Where, following the qualifying change, a person ceases to carry on a trade (or part of a trade) and C begins to carry on (whether or not in partnership) the activities of that trade (or part of a trade) as part of its trade, for the purposes of claiming any allowance in respect of qualifying expenditure such as is mentioned in section 212K(3) the carrying on of those activities by C is to be regarded as the carrying on of a separate trade.

(4) A loss attributable to an allowance claimed in respect of qualifying expenditure such as is mentioned in section 212K(3) may not be set off under section 37 of CTA 2010 otherwise than against the profits of a qualifying activity carried on by C, or any company that is a member of P, at the beginning of the relevant day.

(5) And the amount of such a loss which may be so set off by any person is not to exceed the amount of the loss which would have been available for such set off by the person but for the qualifying change.

(6) A loss attributable to an allowance claimed in respect of qualifying expenditure such as is mentioned in section 212K(3) may not be set off by way of group relief in accordance with Part 5 of CTA 2010 by a company ("the claimant company") unless it would have been available for such set off but for the qualifying change.

(7) And the amount of such a loss which is available for such set off by the claimant company is not to exceed the amount of the loss which would have been available for such set off by the claimant company but for the qualifying change.

(8) If, in relation to any pool—

$$BSVP > PA$$

what would otherwise be the amount of qualifying expenditure such as is mentioned in section 212K(3) is to be treated for the purposes of this section as reduced by so much of the difference between BSVP and PA in relation to the pool as is not taken into account under section 212O(5) in relation to a relevant pool.

(9) Where any activity not carried on by C, or a company that is a member of P, at the beginning of the relevant day would otherwise be regarded for the purposes of corporation tax as forming part of a qualifying activity carried on by C or the member of P at that time it is not to be so regarded for the purposes of subsection (4).

Apportionment of proceeds of disposal of relevant plant and machinery

212R Any amount required to be brought into account in connection with a disposal event in respect of any relevant plant and machinery is to be apportioned between the new pool and the relevant pool concerned on a just and reasonable basis.

Transactions on relevant day

212S (1) This section applies if any plant and machinery is transferred on the relevant day and (apart from subsection (4)(c) of section 212K) the transfer would have the effect of reducing RTWDV (as determined in accordance with that section).

(2) No person other than C or P is entitled to claim an allowance in respect of the plant or machinery after the transfer."

3 For the heading of Chapter 17 substitute " OTHER ANTI-AVOIDANCE ".

4 Section 247 (giving effect to allowances and charges: trades) is renumbered as subsection (1) of that section; and after that subsection insert—

"(2) See Chapter 16A for provision restricting in certain circumstances the ways in which effect may be given to an allowance by virtue of subsection (1)(a)."

5 The amendments made by this Schedule have effect where the relevant day is on or after 21 July 2009.

6 But in relation to cases where the relevant day is before 9 December 2009 the amendment made by paragraph 2 has effect—

(a) with the omission of section 212C(2)(b),
(b) as if in section 212K(1) "which is amount 1" were substituted for " and is to be found by adding together amounts 1 and 2 ",
(c) with the omission of section 212K(3) and (4)(c),
(d) with the omission from section 212O(5) of the words "or under section 212Q(8)",
(e) with the omission of section 212Q, and
(f) with the omission of section 212S.

SCHEDULE 5 U.K.

LEASED ASSETS

Restriction of qualifying expenditure

1 (1) In Chapter 17 of Part 2 of CAA 2001 (plant and machinery: anti-avoidance), after section 228M insert—

"**228MA Restriction of qualifying expenditure**

(1) This section applies where capital expenditure is incurred on the provision of plant or machinery ("the asset") and at the time the expenditure is incurred—

(a) the asset is leased or arrangements exist under which it is to be leased, and

(b) arrangements have been entered into in relation to payments under the lease that have the effect of reducing the value of the asset to the lessor ("V").

(2) For the purposes of capital allowances the lessor's qualifying expenditure on the asset is restricted to V.

(3) The value of the asset to the lessor is given by—

$$V = \mathrm{VI} + \mathrm{VR}$$

where—

VI is the present value of the lessor's income from the asset, and

VR is the present value of the residual value of the asset reduced by the amount of any rental rebate.

(4) For this purpose—

(a) the lessor's income from the asset is the total of all the amounts that—

(i) have been received by the lessor, or it is reasonable to expect the lessor will receive, in connection with the lease, and

(ii) have been brought into account by the lessor, or it is reasonable to expect the lessor will bring into account, as income in computing profits chargeable to tax, and

(b) the residual value of the asset is what it is reasonable to expect will be the market value of the lessor's interest in the asset immediately after the termination of the lease.

(5) In determining the lessor's income from the asset, exclude—

(a) disposal receipts brought, or to be brought, into account under Part 2, and

(b) so much of any amount as represents charges for services or qualifying UK or foreign tax (within the meaning of section 70YE) to be paid by the lessor.

(6) Where capital expenditure has previously been incurred by the lessor on the provision of the asset, the reference in subsection (2) to the lessor's qualifying expenditure on the asset is to be read as a reference to the total amount of the lessor's qualifying expenditure on the asset.

(7) The following provisions supplement this section—

(a) section 228MB provides for the calculation of "present value", and

(b) section 228MC defines what is meant by a rental rebate.

(8) In this section and sections 228MB and 228MC "lease" includes any arrangements which provide for plant or machinery to be leased or otherwise made available by a person ("the lessor") to another person ("the lessee").

228MB Calculation of present value

(1) For the purposes of section 228MA the "present value" of an amount is to be calculated by using the interest rate implicit in the lease.

(2) The general rule is that the interest rate implicit in the lease is the interest rate that would apply in accordance with normal commercial criteria, including, in particular, generally accepted accounting practice (where applicable).

(3) If the interest rate implicit in the lease cannot be determined in accordance with subsection (2), it is taken to be 1% above LIBOR.

(4) For this purpose—

(a) LIBOR means the London interbank offered rate on the relevant day for deposits for a term of 12 months in the relevant currency,

(b) the relevant day is the day on which the lease was entered into (or if that was not a business day, the first business day after that day), and

(c) the relevant currency is the currency in which rentals under the lease are payable.

228MC Rental rebate

(1) For the purposes of section 228MA "rental rebate" means any sum payable to the lessee that is calculated by reference to the termination value of the asset.

(2) The general rule is that the termination value of an asset is the value of the asset at or about the time when the lease terminates.

(3) Calculation by reference to the termination value includes calculation by reference to any one or more of—

(a) the proceeds of sale, if the asset is sold,

(b) any insurance proceeds, compensation or similar sums in respect of the asset, and

(c) an estimate of the market value of the asset.

(4) Calculation by reference to the termination value also includes—

(a) determination in a way which, or by reference to factors or criteria which, might reasonably be expected to produce a broadly similar result to calculation by reference to the termination value, or

(b) any other form of calculation indirectly by reference to the termination value.”

(2) The amendment made by sub-paragraph (1) has effect in relation to capital expenditure incurred on or after 9 December 2009.

Restriction of deduction for rental rebate

2 (1) In Chapter 4 of Part 2 of ITTOIA 2005 (trading income: rules restricting deductions), after section 55A insert—

“Rental rebates

55B Rental rebates

(1) Where plant or machinery (“the asset”) is leased and a rental rebate is payable by the lessor, the amount of the deduction allowable in respect of the rebate is limited to—

(a) the amount of the lessor's income from the lease, or

(b) in the case of a finance lease, that amount excluding the finance charge.

(2) “Rental rebate” means any sum payable to the lessee that is calculated by reference to the termination value of the asset.

(3) For this purpose—

(a) the termination value of an asset is the value of the asset at or about the time when the lease terminates,

(b) calculation by reference to the termination value includes calculation by reference to any one or more of—

(i) the proceeds of sale, if the asset is sold,

(ii) any insurance proceeds, compensation or similar sums in respect of the asset,

(iii) an estimate of the market value of the asset, and

(c) calculation by reference to the termination value also includes—

(i) determination in a way which, or by reference to factors or criteria which, might reasonably be expected to produce a broadly similar result to calculation by reference to the termination value, or

(ii) any other form of calculation indirectly by reference to the termination value.

(4) For the purposes of this section—

(a) the income of the lessor from the lease is the total of all the amounts receivable in connection with the lease that have been brought into account in calculating the lessor's income for income tax purposes, excluding—

(i) disposal receipts brought into account under Part 2 of CAA 2001 (see section 60(1) of that Act), and

(ii) so much of any amount as represents charges for services or qualifying UK or foreign tax (within the meaning of section 70YE of that Act) to be paid by the lessor, and

(b) the finance charge, in relation to a finance lease, is—

(i) if the lease is one that, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, so much of the rentals under the lease as fall (or would fall) to be treated as interest, or

(ii) in any other case, the amount that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment.

(5) Where the asset is acquired by the lessor in a transaction in relation to which an election is made under section 266 of CAA 2001 (election where predecessor and successor are connected persons), this section applies as if the successor had been the lessor at all material times and everything done to or by the predecessor had been done to or by the successor.

(6) Where the whole or part of a rental rebate is disallowed under this section as a deduction in computing profits—

(a) the amount disallowed, or

(b) if less, the amount by which the rental rebate exceeds the amount of capital expenditure incurred by the lessor,

may be treated for the purposes of capital gains tax as an allowable loss accruing to the lessor on the termination of the lease.

That allowable loss is deductible only from chargeable gains accruing to the lessor on the disposal of the asset.

(7) This section does not apply to a long funding finance lease (see section 148C).”

(2) In Chapter 4 of Part 3 of CTA 2009 (trading income: rules restricting deductions), after section 60 insert—

“**60A Rental rebates**

(1) Where plant or machinery (“the asset”) is leased and a rental rebate is payable by the lessor, the amount of the deduction allowable in respect of the rebate is limited to—

(a) the amount of the lessor's income from the lease, or

(b) in the case of a finance lease, that amount excluding the finance charge.

(2) “Rental rebate” means any sum payable to the lessee that is calculated by reference to the termination value of the asset.

(3) For this purpose—

(a) the termination value of an asset is the value of the asset at or about the time when the lease terminates,

(b) calculation by reference to the termination value includes calculation by reference to any one or more of—
(i) the proceeds of sale, if the asset is sold,
(ii) any insurance proceeds, compensation or similar sums in respect of the asset, and
(iii) an estimate of the market value of the asset, and
(c) calculation by reference to the termination value also includes—
(i) determination in a way which, or by reference to factors or criteria which, might reasonably be expected to produce a broadly similar result to calculation by reference to the termination value, or
(ii) any other form of calculation indirectly by reference to the termination value.

(4) For the purposes of this section—
(a) the income of the lessor from the lease is the total of all the amounts receivable in connection with the lease that have been brought into account in calculating the lessor's income for corporation tax purposes, excluding—
(i) disposal receipts brought into account under Part 2 of CAA 2001 (see section 60(1) of that Act), and
(ii) so much of any amount as represents charges for services or qualifying UK or foreign tax (within the meaning of section 70YE of that Act) to be paid by the lessor, and
(b) the finance charge, in relation to a finance lease, is—
(i) if the lease is one that, under generally accepted accounting practice, falls (or would fall) to be treated as a loan, so much of the rentals under the lease as fall (or would fall) to be treated as interest, or
(ii) in any other case, the amount that, in accordance with generally accepted accounting practice, falls (or would fall) to be treated as the gross return on investment.

(5) Where the asset is acquired by the lessor in a transaction—
(a) to which section 948 of CTA 2010 applies (modified application of CAA 2001 in case of transfer of trade without change of ownership), or
(b) in relation to which an election is made under section 266 of CAA 2001 (election where predecessor and successor are connected persons),

this section applies as if the successor had been the lessor at all material times and everything done to or by the predecessor had been done to or by the successor.

(6) Where the whole or part of a rental rebate is disallowed under this section as a deduction in computing profits—
(a) the amount disallowed, or
(b) if less, the amount by which the rental rebate exceeds the amount of capital expenditure incurred by the lessor,

may be treated for the purposes of corporation tax in respect of chargeable gains as an allowable loss accruing to the lessor on the termination of the lease.

That allowable loss is deductible only from chargeable gains accruing to the lessor on the disposal of the asset.

(7) This section does not apply to a long funding finance lease (see section 362 of CTA 2010)."

(3) The amendments made by this paragraph have effect in relation to rental rebates payable on or after 9 December 2009.

Arrangements reducing disposal value of asset

3 (1) In Chapter 5 of Part 2 of CAA 2001 (plant and machinery: general provisions about charges and allowances), after section 64 insert—

"**64A Leased assets: arrangements reducing disposal value of asset**

(1) Where—

(a) plant or machinery ("the asset") is subject to a lease,

(b) a disposal event occurs with the result that a disposal value in respect of the asset is to be brought into account under Item 1, 2 or 7 of the Table in section 61(2), and

(c) arrangements have been entered into that have the effect of reducing the disposal value of the asset in so far as it is attributable to rentals payable under the lease,

the disposal value is to be determined as if the arrangements had not been entered into.

(2) Subsection (1) does not apply if—

(a) the arrangements take the form of a transfer of relevant receipts within section 809AZA of ITA 2007 and the relevant amount has been treated as income under section 809AZB of that Act, or

(b) the arrangements take the form of a transfer of relevant receipts within section 752 of CTA 2010 and the relevant amount has been treated as income under section 753 of that Act."

(2) The amendment made by sub-paragraph (1) has effect in relation to disposal events taking place on or after 9 December 2009.

SCHEDULE 6 U.K.

Section 30

CHARITIES AND COMMUNITY AMATEUR SPORTS CLUBS: DEFINITIONS

PART 1 U.K.

DEFINITION OF "CHARITY", "CHARITABLE COMPANY" AND "CHARITABLE TRUST"

Definition of "charity" etc

1 (1) For the purposes of the enactments to which this Part applies "charity" means a body of persons or trust that—
(a) is established for charitable purposes only,
(b) meets the jurisdiction condition (see paragraph 2),
(c) meets the registration condition (see paragraph 3), and
(d) meets the management condition (see paragraph 4).

(2) For the purposes of the enactments to which this Part applies—
"charitable company" means a charity that is a body of persons;
"charitable trust" means a charity that is a trust.

(3) Sub-paragraphs (1) and (2) are subject to any express provision to the contrary.

(4) For the meaning of "charitable purpose", see section 2 of the Charities Act 2006 (which—
(a) applies regardless of where the body of persons or trust in question is established, and
(b) for this purpose forms part of the law of each part of the United Kingdom (see section 80(3) to (6) of that Act)).

Jurisdiction condition

2 (1) A body of persons or trust meets the jurisdiction condition if it falls to be subject to the control of—
(a) a relevant UK court in the exercise of its jurisdiction with respect to charities, or
(b) any other court in the exercise of a corresponding jurisdiction under the law of a relevant territory.

(2) In sub-paragraph (1)(a) "a relevant UK court" means—
(a) the High Court,
(b) the Court of Session, or
(c) the High Court in Northern Ireland.

(3) In sub-paragraph (1)(b) "a relevant territory" means—
(a) a member State other than the United Kingdom, or
(b) a territory specified in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(4) Regulations under this paragraph are to be made by statutory instrument.

(5) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

Registration condition

3 (1) A body of persons or trust meets the registration condition if—
(a) in the case of a body of persons or trust that is a charity within the meaning of the Charities Act 1993, condition A is met, and
(b) in the case of any other body of persons or trust, condition B is met.

(2) Condition A is that the body of persons or trust has complied with any requirement to be registered in the register of charities kept under section 3 of the Charities Act 1993.

(3) Condition B is that the body of persons or trust has complied with any requirement under the law of a territory outside England and Wales to be registered in a register corresponding to that mentioned in sub-paragraph (2).

Management condition

4 (1) A body of persons or trust meets the management condition if its managers are fit and proper persons to be managers of the body or trust.

(2) In this paragraph "managers", in relation to a body of persons or trust, means the persons having the general control and management of the administration of the body or trust.

Periods over which management condition treated as met

5 (1) This paragraph applies in relation to any period throughout which the management condition is not met.

(2) The management condition is treated as met throughout the period if the Commissioners for Her Majesty's Revenue and Customs consider that—
(a) the failure to meet the management condition has not prejudiced the charitable purposes of the body or trust, or
(b) it is just and reasonable in all the circumstances for the condition to be treated as met throughout the period.

Publication of names and addresses of bodies or trusts regarded by HMRC as charities

6 Her Majesty's Revenue and Customs may publish the name and address of any body of persons or trust that appears to them to meet, or at any time to have met, the definition of a charity in paragraph 1.

Enactments to which this Part applies

7 The enactments to which this Part applies are the enactments relating to—
(a) income tax
(b) capital gains tax,
(c) corporation tax,
(d) value added tax,

Status: Point in time view as at 08/03/2012.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2010. (See end of Document for details)

(e) inheritance tax,
(f) stamp duty,
(g) stamp duty land tax, and
(h) stamp duty reserve tax.

PART 2 U.K.

REPEALS OF SUPERSEDED DEFINITIONS AND OTHER CONSEQUENTIAL AMENDMENTS

FA 1982

8 In section 129(1) of FA 1982 (stamp duty: exemption from duty on grants, transfers to charities etc), for "a body of persons established for charitable purposes only or to the trustees of a trust so established" substitute " a charitable company or to the trustees of a charitable trust ".

Commencement Information

I1 Sch. 6 para. 8 in force at 8.3.2012 with effect as mentioned in art. 3 of the commencing S.I. by S.I. 2012/736, **art. 3**

FA 1983

9 In section 46(3) of FA 1983 (Historic Buildings and Monuments Commission for England) for "a body of persons established for charitable purposes only" substitute " a charitable company ".

IHTA 1984

10 In section 272 of IHTA 1984 (general interpretation), omit the definitions of "charity" and "charitable".

Commencement Information

I2 Sch. 6 para. 10 in force at 8.3.2012, with effect as mentioned in art. 5 of the commencing S.I. by S.I. 2012/736, **art. 5**

FA 1986

11 In section 90(7) of FA 1986 (stamp duty reserve tax: exceptions from principal charge)—
(a) in paragraph (a), for "a body of persons established for charitable purposes only" substitute " a charitable company ", and
(b) in paragraph (b), for "a trust so established" substitute " a charitable trust ".

Commencement Information

I3 Sch. 6 para. 11 in force at 8.3.2012, with effect as mentioned in art. 6 of the commencing S.I. by S.I. 2012/736, **art. 6**

FA 1989

12 In paragraph 4 of Schedule 5 to FA 1989 (employee share ownership trusts), omit sub-paragraph (10).

Commencement Information

I4 Sch. 6 para. 12 in force at 8.3.2012, with effect as mentioned in art. 7 of the commencing S.I. by S.I. 2012/736, **art. 7**

TCGA 1992

13 (1) TCGA 1992 is amended as follows.

(2) In section 222(8B)(b)(iii) (relief on disposal of private residence), for "established for charitable purposes only" substitute " a charitable company ".

(3) In section 256 (charities), omit subsections (6) and (8).

(4) In section 256C (attributing gains to the non-exempt amount: charitable companies), omit subsection (6).

(5) In section 256D (how gains are attributed to the non-exempt amount: charitable companies), omit subsection (7).

Commencement Information

I5 Sch. 6 para. 13(2) in force at 8.3.2012, with effect as mentioned in art. 8 of the commencing S.I. by S.I. 2012/736, **art. 8**

I6 Sch. 6 para. 13(3)(4)(5) in force at 8.3.2012, with effect as mentioned in art. 9 of the commencing S.I. by S.I. 2012/736, **art. 9**

F(No.2)A 1997

14 F2 . . . .

Textual Amendments

F2 Sch. 6 para. 14 repealed (19.7.2011) by Finance Act 2011 (c. 11), s. 91, **Sch. 26 para. 1(2)(b)(ii)**

FA 1999

15 (1) Schedule 19 to FA 1999 (stamp duty and stamp duty reserve tax: unit trusts) is amended as follows.

(2) In paragraph 6(3)—

(a) in paragraph (a), for "a body of persons established for charitable purposes only" substitute " a charitable company ", and

(b) in paragraph (b), for "a trust established for those purposes only" substitute " a charitable trust ".

(3) In paragraph 15(c), for "bodies of persons established for charitable purposes only or trustees of trusts so established" substitute " charitable companies or trustees of charitable trusts ".

Commencement Information

I7 Sch. 6 para. 15(2) in force at 8.3.2012 with effect as mentioned in art. 10 of the commencing S.I. by S.I. 2012/736, **art. 10**

CAA 2001

16 In section 63(2) of CAA 2001 (cases in which disposal value is nil)—

(a) in paragraph (a), omit "within the meaning of Part 10 of ITA 2007 (see section 519 of that Act)", and

(b) in paragraph (aa), omit "within the meaning of Part 11 of CTA 2010 (see section 467 of that Act)".

Commencement Information

I8 Sch. 6 para. 16 in force at 8.3.2012, with effect as mentioned in art. 12 of the commencing S.I. by S.I. 2012/736, **art. 12**

ITEPA 2003

17 (1) ITEPA 2003 is amended as follows.

(2) In section 99(3)(b)(ii) (accommodation provided for performance of duties), for "established for charitable purposes only" substitute " a charitable company ".

(3) In section 216(3)(b) (provisions not applicable to lower-paid employments) for "established for charitable purposes only" substitute " a charitable company ".

(4) In section 223(7)(b)(ii) (payments on account of director's tax other than by the director), for "established for charitable purposes only" substitute " a charitable company ".

(5) In section 290(5) (accommodation benefits of ministers of religion), omit the definition of "charity".

(6) In section 351 (expenses of ministers of religion), omit subsection (5).

(7) In section 714(2) (payroll giving: meaning of "donation"), in the definition of "charity", omit "means any body of persons or trust established for charitable purposes only and".

Commencement Information

I9 Sch. 6 para. 17 in force at 8.3.2012, with effect as mentioned in art. 13 of the commencing S.I. by S.I. 2012/736, **art. 13**

FA 2003

18 Schedule 8 to FA 2003 (SDLT: charities relief) is amended as follows.

19 In paragraph 1 (charities relief), omit sub-paragraph (4).

Commencement Information

I10 Sch. 6 para. 19 in force at 8.3.2012, with effect as mentioned in art. 14 of the commencing S.I. by S.I. 2012/736, **art. 14**

20 In paragraph 4 (charitable trusts), in sub-paragraph (2), omit "and "charity" has the same meaning as in paragraph 1".

Commencement Information

I11 Sch. 6 para. 20 in force at 8.3.2012 with effect as mentioned in art. 14 of the commencing S.I. by S.I. 2012/736, **art. 14**

ITTOIA 2005

21 (1) ITTOIA 2005 is amended as follows.

(2) In section 410(3)(b) (when stock dividend income arises), for "trust established for charitable purposes only" substitute " charitable trust ".

(3) In section 545(1) (definitions for Chapter 9 of Part 4), omit the definition of "charitable trust".

(4) In section 568(3) (special rule for certain income of trustees), for "trust established for charitable purposes" substitute " charitable trust ".

(5) In Part 2 of Schedule 4 (index of defined expressions)—

(a) in the entry for "charitable trust (in Chapter 9 of Part 4)"—

(i) omit "(in Chapter 9 of Part 4)", and

(ii) for "section 545(1)" substitute " paragraph 1 of Schedule 6 to FA 2010 ", and

(b) in the entry for "charity", for "section 989 of ITA 2007" substitute " paragraph 1 of Schedule 6 to FA 2010 ".

Commencement Information

I12 Sch. 6 para. 21(2)(4)(5)(b) in force at 8.3.2012 with effect as mentioned in art. 15(1) of the commencing S.I. by S.I. 2012/736, **art. 15(1)**

I13 Sch. 6 para. 21(3)(5)(a) in force at 8.3.2012 with effect as mentioned in art. 15(2) of the commencing S.I. by S.I. 2012/736, **art. 15(2)**(3)

F(No.2)A 2005

22 In section 18(3)(b)(i) of F(No.2)A 2005 (authorised unit trusts and OEICS: specific powers) omit "(within the meaning of section 989 of ITA 2007)".

ITA 2007

23 (1) ITA 2007 is amended as follows.

(2) In section 479(1)(b) (special rates for trustees' income), for "trust established for charitable purposes only" substitute " charitable trust ".

(3) In section 481(1)(c) (other special rates for trustees), for "trust established for charitable purposes only" substitute " charitable trust ".

(4) Omit section 519 (meaning of "charitable trust").

(5) In section 873(2) (discretionary or accumulation settlements), in paragraphs (a) and (b), for "trust established for charitable purposes only" substitute " charitable trust ".

(6) In section 989 (definitions), omit the definition of "charity".

(7) In Schedule 4 (index of defined expressions)—

(a) in the entry for "charitable trust (in Part 10)"—

(i) omit "(in Part 10)", and

(ii) for "section 519" substitute " paragraph 1 of Schedule 6 to FA 2010 ", and

(b) in the entries for "charity", "charity (in Chapter 2 of Part 8)" and "charity (in Chapter 3 of Part 8)", for "section 989" substitute " paragraph 1 of Schedule 6 to FA 2010 ".

Commencement Information

I14 Sch. 6 para. 23(2)-(5) (7) in force at 8.3.2012 with effect as mentioned in art. 17 of the commencing S.I. by S.I. 2012/736, **art. 17**

I15 Sch. 6 para. 23(6) in force at 8.3.2012 with effect as mentioned in art. 18 of the commencing S.I. by S.I. 2012/736, **art. 18**

FA 2008

24 In paragraph 60(2) of Schedule 36 to FA 2008 (references to carrying on a business), omit the definition of "charity".

CTA 2009

25 (1) CTA 2009 is amended as follows.

(2) In section 1319 (other definitions), omit the definition of "charity".

(3) In Schedule 4 (index of defined expressions), in the entry for "charity", for "section 1319" substitute " paragraph 1 of Schedule 6 to FA 2010 ".

FA 2009

26 In paragraph 8 of Schedule 49 to FA 2009 (general interpretation), omit the definition of "charity".

CTA 2010

27 (1) CTA 2010 is amended as follows.

(2) In section 202 (meaning of "charity" in Chapter 2 of Part 6)—
 (a) for "means" substitute " includes ", and
 (b) omit paragraph (a).

(3) In section 217 (meaning of "charity" in Chapter 3 of Part 6)—
 (a) for "means" substitute " includes ", and
 (b) omit paragraph (a).

(4) Omit section 467 (meaning of "charitable company" in Part 11).

(5) In section 610(2)(a) (discretionary payments by trustees to companies), omit "as defined in section 467".

(6) In section 1119 (definitions), omit the definition of "charity".

(7) In Schedule 4 (index of defined expressions)—
 (a) in the entry for "charitable company (in Part 11)"—
  (i) omit "(in Part 11)", and
  (ii) for "section 467" substitute " paragraph 1 of Schedule 6 to FA 2010 ",
 (b) in the entry for "charity (except in Chapters 2 and 3 of Part 6)" for "section 1119" substitute " paragraph 1 of Schedule 6 to FA 2010 ",
 (c) in the entry for "charity (in Chapter 2 of Part 6)", for "section 202" substitute " paragraph 1 of Schedule 6 to FA 2010 (and see section 202 of this Act) ", and
 (d) in the entry for "charity (in Chapter 3 of Part 6)", for "section 217" substitute " paragraph 1 of Schedule 6 to FA 2010 (and see section 217 of this Act) ".

Commencement Information

I16 Sch. 6 para. 27 in force at 8.3.2012 with effect as mentioned in art. 21 of the commencing S.I. by S.I. 2012/736, **art. 21**

TIOPA 2010

28 In section 326(3) of TIOPA 2010 (charities), omit the definition of "charity" and the "and" immediately after it.

Commencement Information

I17 Sch. 6 para. 28 in force at 8.3.2012 with effect as mentioned in art. 22 of the commencing S.I. by S.I. 2012/736, **art. 22**

Power to make further consequential provision

29 (1) The Commissioners for Her Majesty's Revenue and Customs may by order make such further consequential, incidental, supplemental, transitional or transitory provision or saving as appears appropriate in consequence of, or otherwise in connection with, Part 1.

(2) An order under this paragraph may—
- (a) make different provision for different purposes, and
- (b) make provision repealing, revoking or otherwise amending any enactment or instrument (whenever passed or made).

(3) An order under this paragraph is to be made by statutory instrument.

(4) A statutory instrument containing an order under this paragraph is subject to annulment in pursuance of an order of the House of Commons.

PART 3 U.K.

MEANING OF "COMMUNITY AMATEUR SPORTS CLUB"

30 Chapter 9 of Part 13 of CTA 2010 (community amateur sports clubs) is amended as follows.

31 In section 658(1) (meaning) omit the "and" at the end of paragraph (b) and after paragraph (c) insert—
- "(d) meets the location condition (see section 661A), and
- (e) meets the management condition (see section 661B)."

32 After section 661 insert—

"**661A The location condition**

(1) A club meets the location condition for the purposes of section 658 if—
- (a) it is established in a member State or a relevant territory, and
- (b) the facilities that it provides for eligible sports are all located in a single member State or relevant territory.

(2) In this section "relevant territory" means a territory specified in regulations under paragraph 2(3)(b) of Schedule 6 to FA 2010 (definition of "charity" etc).

661B The management condition

(1) A club meets the management condition for the purposes of section 658 if its managers are fit and proper persons to be managers of the club.

(2) In this paragraph "managers", in relation to a club, means the persons having the general control and management of the administration of the club.

661C Periods over which management condition treated as met

(1) This paragraph applies in relation to any period throughout which the management condition is not met.

(2) The management condition is treated as met throughout the period if the Commissioners for Her Majesty's Revenue and Customs consider that—

(a) the failure to meet the management condition has not prejudiced the purposes of the club, or

(b) it is just and reasonable in all the circumstances for the condition to be treated as met throughout the period."

PART 4 U.K.

COMMENCEMENT

Commencement of Part 1

33 (1) Part 1 is treated as having come into force on 6 April 2010.

(2) But the definitions of "charity", "charitable company" and "charitable trust" in that Part do not apply for the purposes of an enactment in relation to which, on that date, another definition applies until such time as that other definition ceases to have effect on the coming into force of provision made by or under Part 2.

(3) For provision about the coming into force of provision made by that Part, see paragraph 34.

Commencement of Part 2

34 (1) The repeal of the definition of "charity" in section 989 of ITA 2007 made by paragraph 23(6) above has effect—

(a) so far as it applies for the purposes of Chapter 2 of Part 8 of that Act (gift aid), in relation to gifts made on or after 6 April 2010, and

(b) so far as it applies for other purposes, in accordance with such provision as the Treasury may make by order.

(2) The other amendments made by Part 2 come into force in accordance with such provision as the Treasury may make by order.

(3) An order under this paragraph may—

(a) make different provision for different purposes, and

(b) include transitional provision and savings.

(4) An order under this paragraph is to be made by statutory instrument.

Commencement of Part 3

35 The amendments made by Part 3 are treated as having come into force on 6 April 2010.

SCHEDULE 7 U.K.

Section 31

GIFTS OF SHARES ETC TO CHARITIES

Gifts by individuals

1 Chapter 3 of Part 8 of ITA 2007 (relief for gifts by individuals of shares, securities and real property to charities etc) is amended as follows.

2 (1) Section 437 (value of net benefit to charity) is amended as follows.

(2) In subsection (1), for “market” (in both places) substitute “ relevant ”.

(3) After that subsection insert—

“(1A) In subsection (1) “relevant value” means—

(a) where subsection (1B) applies, the lower of the market value and the acquisition value, and

(b) otherwise, the market value.

(1B) This subsection applies where—

(a) the qualifying investment, or anything from which it derives or which it represents (whether in whole or in part and whether directly or indirectly), was acquired by the individual making the disposal within the period of 4 years ending with the day on which the disposal is made,

(b) the acquisition was made as part of a scheme, and

(c) the main purpose, or one of the main purposes, of the individual in entering into the scheme was to obtain relief, or an increased amount of relief, under this Chapter.

(1C) In subsection (1B) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”

(4) In subsection (2), after the entry relating to section 438 insert— “ section 438A (acquisition value of qualifying investments), ”.

3 After section 438 insert—

“**438A Acquisition value of qualifying investments**

(1) For the purposes of this Chapter the acquisition value of a qualifying investment disposed of by an individual is—

(a) where the qualifying investment was acquired by the individual within the period of 4 years ending with the day on which the disposal is made, the cost to the individual of acquiring it, or

(b) where something from which the qualifying investment derives or which it represents was so acquired, such proportion of the cost to the individual of acquiring that thing as is just and reasonable to attribute to the qualifying investment.

(2) A reference in subsection (1) to the cost to the individual of an acquisition is to—

(a) the consideration given by the individual for the acquisition, less

(b) any amount that is received in connection with the acquisition, by the individual or a person connected with the individual, as part of the scheme in question.”

4 In Schedule 4 to ITA 2007 (index of defined expressions), after the entry relating to accumulated or discretionary income insert—

“acquisition value of a qualifying investment (in Chapter 3 of Part 8)	section 438A”.

Gifts by companies

5 Chapter 3 of Part 6 of CTA 2010 (charitable donations relief: amounts treated as qualifying charitable donations) is amended as follows.

6 (1) Section 209 (value of net benefit to charity) is amended as follows.

(2) In subsection (1), for “market” (in both places) substitute “ relevant ”.

(3) After that subsection insert—

“(1A) In subsection (1) “relevant value” means—

(a) where subsection (1B) applies, the lower of the market value and the acquisition value, and

(b) otherwise, the market value.

(1B) This subsection applies where—

(a) the qualifying investment, or anything from which it derives or which it represents (whether in whole or in part and whether directly or indirectly), was acquired by the company making the disposal within the period of 4 years ending with the day on which the disposal is made,

(b) the acquisition was made as part of a scheme, and

(c) the main purpose, or one of the main purposes, of the company in entering into the scheme was to obtain relief, or an increased amount of relief, as a result of this Chapter.

(1C) In subsection (1B) “scheme” includes any scheme, arrangement or understanding of any kind, whether or not legally enforceable, involving a single transaction or two or more transactions.”

(4) In subsection (2), after paragraph (a) insert—

“(aa) section 210A (acquisition value of qualifying investments),”.

7 After section 210 insert—

“210A Acquisition value of qualifying investments

(1) For the purposes of this Chapter the acquisition value of a qualifying investment disposed of by a company is—

(a) where the qualifying investment was acquired by the company within the period of 4 years ending with the day on which the disposal is made, the cost to the company of acquiring it, or

(b) where something from which the qualifying investment derives or which it represents was so acquired, such proportion of the cost to the company of acquiring that thing as is just and reasonable to attribute to the qualifying investment.

(2) A reference in subsection (1) to the cost to the company of an acquisition is to—

(a) the consideration given by the company for the acquisition, less

(b) any amount that is received in connection with the acquisition, by the company or a person connected with it, as part of the scheme in question."

8 In Schedule 4 to CTA 2010 (index of defined expressions), after the entry relating to accounts (in Chapter 2 of Part 16) insert—

"acquisition value of a qualifying investment (in Chapter 3 of Part 6)	section 210A".

Commencement and corresponding ICTA amendments

9 The amendments made by this Schedule have effect in relation to any disposal made to a charity on or after 15 December 2009.

10 Amendments corresponding to the ones made by paragraphs 6 and 7, having effect in relation to any such disposal, are to be treated as having been made in section 587B of ICTA.

SCHEDULE 8 U.K.

Section 32

CHARITIES: MISCELLANEOUS AMENDMENTS

Payroll giving

1 (1) In ITA 2007, after section 521 insert—

"521A Gifts under payroll deduction schemes: income tax liability and exemption

(1) This section applies if gifts are made to charitable trusts by individuals and the gifts are donations for the purposes of Part 12 of ITEPA 2003 (payroll giving).

(2) Income tax is charged on the gifts under this section.

(3) It is charged on the full amount of the gifts arising in the tax year.

(4) But a gift is not taken into account in calculating total income so far as it is applied to charitable purposes only.

(5) The trustees of the charitable trust are liable for any tax charged under this section."

(2) In CTA 2010, after section 472 insert—

"**472A Gifts under payroll deduction schemes: corporation tax liability and exemption**

(1) If a charitable company receives a gift from an individual and the gift is a donation for the purposes of Part 12 of ITEPA 2003 (payroll giving), the gift is treated as an amount in respect of which the charitable company is chargeable to corporation tax, under the charge to corporation tax on income.

(2) But the gift is not taken into account in calculating total profits so far as it is applied to charitable purposes only.

(3) The exemption under subsection (2) requires a claim."

Payments to bodies outside the UK: non-charitable expenditure

2 (1) In section 547(b) of ITA 2007 (payments by charitable trusts to bodies outside the UK), after "such steps as" insert " the Commissioners for Her Majesty's Revenue and Customs consider ".

(2) In section 500(b) of CTA 2010 (payments by charitable companies to bodies outside the UK), after "such steps as" insert " the Commissioners for Her Majesty's Revenue and Customs consider ".

Gift aid: disqualified overseas gifts

3 (1) Chapter 2 of Part 8 of ITA 2007 (gift aid) is amended as follows.

(2) In section 416 (meaning of "qualifying donation")—

(a) in subsection (1)(a) for "G" substitute " F ", and

(b) omit subsection (8).

(3) Omit section 422 (disqualified overseas gifts).

(4) In section 429(3) (giving through self-assessment return), for "G" substitute " F ".

Gift aid administration: charitable trusts

4 (1) Section 42 of TMA 1970 (procedure for making claims etc) is amended as follows.

(2) In subsection (2), for "(3A)" substitute " (3ZA) ".

(3) After subsection (3) insert—

"(3ZA) Subsection (2) above shall not apply in relation to any claim by the trustees of a charitable trust for an amount to be exempt from tax by virtue of section 521(4) of ITA 2007 (gifts entitling donor to gift aid relief: charitable trusts)."

5 (1) ITA 2007 is amended as follows.

(2) In section 518(4) (overview of Part 10), for "section 538" substitute " sections 538 and 538A ".

(3) After section 538 insert—

"**538A Claims in relation to gift aid relief**

(1) This section applies to claims for amounts to be exempt from tax by virtue of section 521(4) (gifts entitling donor to gift aid relief: charitable trusts).

(2) A claim to which this section applies may be made—

(a) to an officer of Revenue and Customs, or

(b) by being included in a return under section 8A of TMA 1970 (trustee's self-assessment return).

(3) In this section—

"free-standing claim" means a claim made as mentioned in subsection (2)(a), and

"tax return claim" means a claim made as mentioned in subsection (2)(b).

(4) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

(a) limiting the number of free-standing claims that may be made by a person in a tax year, or

(b) requiring a claim for an amount below an amount specified in the regulations to be made as a tax return claim.

(5) The regulations may make different provision for different cases or purposes."

Gift aid administration: charitable companies

6 (1) Schedule 18 to FA 1998 (company tax returns, assessments and related matters) is amended as follows.

(2) In paragraph 9 (claims that cannot be made without a return), after sub-paragraph (2) insert—

"(2A) But this paragraph does not apply to a claim by a company for an amount to be exempt from tax by virtue of—

(a) section 472 of CTA 2010 (gifts qualifying for gift aid relief: charitable companies), or

(b) section 475 of that Act (gifts qualifying for gift aid relief: eligible bodies)."

(3) In paragraph 57 (claims or elections affecting a single accounting period), after sub-paragraph (1) insert—

"(1A) But this paragraph does not apply to a claim by a company for an amount to be exempt from tax by virtue of—

(a) section 472 of CTA 2010 (gifts qualifying for gift aid relief: charitable companies), or

(b) section 475 of that Act (gifts qualifying for gift aid relief: eligible bodies)."

7 In CTA 2010, after section 477 insert—

"Claims

477A Claims in relation to gift aid relief

(1) This section applies to claims for amounts to be exempt from tax by virtue of—

(a) section 472 (gifts qualifying for gift aid relief: charitable companies), or

(b) section 475 (gifts qualifying for gift aid relief: eligible bodies).

(2) A claim to which this section applies may be made—

(a) to an officer of Revenue and Customs, or

(b) where the claimant is a company, by being included in the claimant's company tax return.

(3) In this section—

"free-standing claim" means a claim made as mentioned in subsection (2)(a), and

"tax return claim" means a claim made as mentioned in subsection (2)(b).

(4) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision—

(a) limiting the number of free-standing claims that may be made by a person in a tax year, or

(b) requiring a claim for an amount below an amount specified in the regulations to be made as a tax return claim.

(5) The regulations may make different provision for different cases or purposes."

Commencement

8 (1) The amendments made by paragraph 1 have effect in relation to gifts made on or after 24 March 2010.

(2) An amendment corresponding to that made by paragraph 1(2), having effect in relation to gifts made on or after that date, is to be treated as having been made in ICTA.

(3) The amendments made by paragraph 2 have effect in relation to payments representing expenditure incurred on or after 24 March.

(4) An amendment corresponding to that made by paragraph 2(2), having effect in relation to payments representing expenditure incurred on or after that date, is to be treated as having been made in ICTA.

(5) The amendments made by paragraph 3 have effect in relation to gifts made on or after 6 April 2010.

(6) The amendments made by paragraphs 4 and 6 have effect in relation to claims whenever made.

SCHEDULE 9 U.K.

Section 34

FOREIGN CURRENCY BANK ACCOUNTS

1 In TCGA 1992, after section 252 insert—

"252A Foreign currency bank accounts and the remittance basis

Schedule 8A contains provision about the calculation of chargeable gains on disposals of debts to which section 252(1) applies which are not situated in the United Kingdom."

2 In that Act, after Schedule 8 insert—

"SCHEDULE 8A U.K.

FOREIGN CURRENCY BANK ACCOUNTS

Introductory

1 (1) This Schedule applies where—

(a) an individual makes a disposal of a debt to which section 252(1) applies ("the relevant disposal"),

(b) the debt ("the section 252 debt") is not situated in the United Kingdom, and

(c) money or money's worth which is remitted foreign income ("the section 37 amount") is excluded under section 37 from the consideration for the relevant disposal.

(2) For this purpose "remitted foreign income" means income of the individual which is chargeable to income tax on the alternative basis of charge set out in Chapter A1 of Part 14 of ITA 2007 (remittance basis).

(3) In determining whether the condition in sub-paragraph (1)(c) is met, the following provisions of this Schedule are to be ignored.

Section 37 operates to exclude the whole consideration

2 (1) This paragraph applies where the section 37 amount constitutes the whole of the unreduced consideration.

(2) If the relevant disposal is a part disposal of the section 252 debt, section 42 applies as if the reference in subsection (2)(a) of that section to the consideration for the disposal were a reference to the unreduced consideration for the disposal.

(3) Any loss accruing to the individual on the relevant disposal is not an allowable loss.

Section 37 operates to exclude part of the consideration

3 (1) This paragraph applies where the section 37 amount constitutes part of the unreduced consideration.

(2) For the purposes of this Act the relevant disposal is to be treated as if it were—

(a) a disposal of so much of the section 252 debt as is represented by the section 37 proportion of the sum mentioned in sub-paragraph (3) ("debt A"), and

(b) a separate disposal of so much of the section 252 debt as is represented by the remainder of that sum ("debt B").

(3) That sum is—

(a) if the relevant disposal is a disposal of the whole of the section 252 debt, the sum referred to in section 252(1), and

(b) if the relevant disposal is a part disposal of that debt, the proportion of the sum referred to in section 252(1) to which that part disposal relates.

(4) Sub-paragraphs (5) to (9) apply for the purposes of—

(a) the computation of the gain accruing on the disposals under sub-paragraph (2), and

(b) the application of Chapter 3 of Part 2 of this Act in relation to the part of the debt (if any) which remains undisposed of.

(5) The consideration for the disposal (before any exclusion under section 37) is—

(a) in the case of debt A, the section 37 amount, and

(b) in the case of debt B, the remainder of the unreduced consideration.

(6) If the relevant disposal is not a part disposal of the section 252 debt—

(a) the section 37 proportion of the debt costs and the disposal costs is to be attributed to debt A, and

(b) the remaining debt costs and disposal costs are to be attributed to debt B.

(7) Sub-paragraphs (8) and (9) apply if the relevant disposal is a part disposal of the section 252 debt.

(8) Section 42(2) applies as if it provided for the debt costs to be apportioned between debt A, debt B and the remainder of the section 252 debt in the proportions which those parts of the section 252 debt bear to one another.

(9) The section 37 proportion of the disposal costs is to be attributed to debt A and the remaining disposal costs are to be attributed to debt B.

(10) Any loss accruing to the individual on the disposal of debt A is not an allowable loss.

Interpretation

4 In this Schedule—

"debt costs" means the sums which under section 38(1)(a) and (b) are attributable to the section 252 debt;

"disposal costs" means the costs within section 38(1)(c) in relation to the relevant disposal;

"the section 252 debt", "the relevant disposal" and "the section 37 amount" are to be construed in accordance with paragraph 1;

"the section 37 proportion" means the proportion of the unreduced consideration which constitutes the section 37 amount;

"the unreduced consideration" means the consideration for the relevant disposal ignoring the exclusion of the section 37 amount."

3 The amendments made by this Schedule have effect in relation to disposals on or after 16 December 2009.

SCHEDULE 10 U.K.

Section 35

PENALTIES: OFFSHORE INCOME ETC

Schedule 24 to FA 2007

1 Schedule 24 to FA 2007 (penalties for errors) is amended as follows.

2 For paragraph 4 substitute—

"4 (1) This paragraph sets out the penalty payable under paragraph 1.

(2) If the inaccuracy is in category 1, the penalty is—
(a) for careless action, 30% of the potential lost revenue,
(b) for deliberate but not concealed action, 70% of the potential lost revenue, and
(c) for deliberate and concealed action, 100% of the potential lost revenue.

(3) If the inaccuracy is in category 2, the penalty is—
(a) for careless action, 45% of the potential lost revenue,
(b) for deliberate but not concealed action, 105% of the potential lost revenue, and
(c) for deliberate and concealed action, 150% of the potential lost revenue.

(4) If the inaccuracy is in category 3, the penalty is—
(a) for careless action, 60% of the potential lost revenue,
(b) for deliberate but not concealed action, 140% of the potential lost revenue, and
(c) for deliberate and concealed action, 200% of the potential lost revenue.

(5) Paragraph 4A explains the 3 categories of inaccuracy.

4A (1) An inaccuracy is in category 1 if—
(a) it involves a domestic matter, or
(b) it involves an offshore matter and—
(i) the territory in question is a category 1 territory, or
(ii) the tax at stake is a tax other than income tax or capital gains tax.

(2) An inaccuracy is in category 2 if—
(a) it involves an offshore matter,
(b) the territory in question is a category 2 territory, and
(c) the tax at stake is income tax or capital gains tax.

(3) An inaccuracy is in category 3 if—
(a) it involves an offshore matter,
(b) the territory in question is a category 3 territory, and
(c) the tax at stake is income tax or capital gains tax.

(4) An inaccuracy "involves an offshore matter" if it results in a potential loss of revenue that is charged on or by reference to—
(a) income arising from a source in a territory outside the UK,
(b) assets situated or held in a territory outside the UK,
(c) activities carried on wholly or mainly in a territory outside the UK, or
(d) anything having effect as if it were income, assets or activities of a kind described above.

(5) An inaccuracy "involves a domestic matter" if it results in a potential loss of revenue that is charged on or by reference to anything not mentioned in sub-paragraph (4)(a) to (d).

(6) If a single inaccuracy is in more than one category (each referred to as a "relevant category")—
(a) it is to be treated for the purposes of this Schedule as if it were separate inaccuracies, one in each relevant category according to the matters that it involves, and
(b) the potential lost revenue is to be calculated separately in respect of each separate inaccuracy.

(7) "Category 1 territory", "category 2 territory" and "category 3 territory" are defined in paragraph 21A.

(8) "Assets" has the meaning given in section 21(1) of TCGA 1992, but also includes sterling.

4B The penalty payable under paragraph 1A is 100% of the potential lost revenue.

4C The penalty payable under paragraph 2 is 30% of the potential lost revenue.

4D Paragraphs 5 to 8 define "potential lost revenue"."

3 For paragraph 10 substitute—

"10 (1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table (a "standard percentage") has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.

(2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—
(a) in the case of a prompted disclosure, in column 2 of the Table, and
(b) in the case of an unprompted disclosure, in column 3 of the Table.

4 In paragraph 12 (interaction with other penalties), for sub-paragraph (4) substitute—

"(4) Where penalties are imposed under paragraphs 1 and 1A in respect of the same inaccuracy, the aggregate of the amounts of the penalties must not exceed the relevant percentage of the potential lost revenue.

(5) The relevant percentage is—

(a) if the penalty imposed under paragraph 1 is for an inaccuracy in category 1, 100%,

(b) if the penalty imposed under paragraph 1 is for an inaccuracy in category 2, 150%, and

(c) if the penalty imposed under paragraph 1 is for an inaccuracy in category 3, 200%."

5 In Part 5 (general), before the heading "Interpretation" insert—

"Classification of territories

21A (1) A category 1 territory is a territory designated as a category 1 territory by order made by the Treasury.

(2) A category 2 territory is a territory that is neither—

(a) a category 1 territory, nor

(b) a category 3 territory.

(3) A category 3 territory is a territory designated as a category 3 territory by order made by the Treasury.

(4) In considering how to classify a territory for the purposes of this paragraph, the Treasury must have regard to—

(a) the existence of any arrangements between the UK and that territory for the exchange of information for tax enforcement purposes,

(b) the quality of any such arrangements (in particular, whether they provide for information to be exchanged automatically or on request), and

(c) the benefit that the UK would be likely to obtain from receiving information from that territory, were such arrangements to exist with it.

(5) An order under this paragraph is to be made by statutory instrument.

(6) Subject to sub-paragraph (7), an instrument containing an order under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

(7) If the order is—

(a) the first order to be made under sub-paragraph (1), or

(b) the first order to be made under sub-paragraph (3),

it may not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

(8) An order under this paragraph does not apply to inaccuracies in a document given to HMRC (or, in a case within paragraph 3(2), inaccuracies discovered by P) before the date on which the order comes into force.

Location of assets etc

21B (1) The Treasury may by regulations make provision for determining for the purposes of paragraph 4A where—

(a) a source of income is located,

(b) an asset is situated or held, or

(c) activities are wholly or mainly carried on.

(2) Different provision may be made for different cases and for income tax and capital gains tax.

(3) Regulations under this paragraph are to be made by statutory instrument.

(4) An instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons."

6 After paragraph 23A insert—

"23B UK" means the United Kingdom, including the territorial sea of the United Kingdom."

Schedule 41 to FA 2008

7 Schedule 41 to FA 2008 (penalties: failure to notify and certain VAT and excise wrongdoing) is amended as follows.

8 For paragraph 6 substitute—

"6 (1) This paragraph sets out the penalty payable under paragraph 1.

(2) If the failure is in category 1, the penalty is—

(a) for a deliberate and concealed failure, 100% of the potential lost revenue,

(b) for a deliberate but not concealed failure, 70% of the potential lost revenue, and

(c) for any other case, 30% of the potential lost revenue.

(3) If the failure is in category 2, the penalty is—

(a) for a deliberate and concealed failure, 150% of the potential lost revenue,

(b) for a deliberate but not concealed failure, 105% of the potential lost revenue, and

(c) for any other case, 45% of the potential lost revenue.

(4) If the failure is in category 3, the penalty is—

(a) for a deliberate and concealed failure, 200% of the potential lost revenue,

(b) for a deliberate but not concealed failure, 140% of the potential lost revenue, and

(c) for any other case, 60% of the potential lost revenue.

(5) Paragraph 6A explains the 3 categories of failure.

6A (1) A failure is in category 1 if—

(a) it involves a domestic matter, or

(b) it involves an offshore matter and—

(i) the territory in question is a category 1 territory, or

(ii) the tax at stake is a tax other than income tax or capital gains tax.

(2) A failure is in category 2 if—

(a) it involves an offshore matter,

(b) the territory in question is a category 2 territory, and

(c) the tax at stake is income tax or capital gains tax.

(3) A failure is in category 3 if—

(a) it involves an offshore matter,

(b) the territory in question is a category 3 territory, and

(c) the tax at stake is income tax or capital gains tax.

(4) A failure "involves an offshore matter" if it results in a potential loss of revenue that is charged on or by reference to—

(a) income arising from a source in a territory outside the UK,

(b) assets situated or held in a territory outside the UK,

(c) activities carried on wholly or mainly in a territory outside the UK, or

(d) anything having effect as if it were income, assets or activities of a kind described above.

(5) A failure "involves a domestic matter" if it results in a potential loss of revenue that is charged on or by reference to anything not mentioned in sub-paragraph (4)(a) to (d).

(6) If a single failure is in more than one category (each referred to as a "relevant category")—

(a) it is to be treated for the purposes of this Schedule as if it were separate failures, one in each relevant category according to the matters that it involves, and

(b) the potential lost revenue in respect of each separate failure is taken to be such share of the potential lost revenue in respect of the single failure (see paragraphs 7 and 11) as is just and reasonable.

(7) For the purposes of this Schedule—

(a) paragraph 21A of Schedule 24 to FA 2007 (classification of territories) has effect, but

(b) an order under that paragraph does not apply to relevant obligations that are to be complied with by a date before the date on which the order comes into force.

(8) Regulations under paragraph 21B of Schedule 24 to FA 2007 (location of assets etc) apply for the purposes of paragraph 6A of this Schedule as they apply for the purposes of paragraph 4A of that Schedule.

(9) In this paragraph—

"assets" has the meaning given in section 21(1) of TCGA 1992, but also includes sterling;

"UK" means the United Kingdom, including the territorial sea of the United Kingdom.

6B The penalty payable under any of paragraphs 2, 3(1) and 4 is—

(a) for a deliberate and concealed act or failure, 100% of the potential lost revenue,

(b) for a deliberate but not concealed act or failure, 70% of the potential lost revenue, and

(c) for any other case, 30% of the potential lost revenue.

6C The penalty payable under paragraph 3(2) is 100% of the potential lost revenue.

6D Paragraphs 7 to 11 define "potential lost revenue"."

9 For paragraph 13 substitute—

"13 (1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table (a "standard percentage") has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.

(2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—

(a) for a prompted disclosure, in column 2 of the Table, and

(b) for an unprompted disclosure, in column 3 of the Table.

(3) Where the Table shows a different minimum for case A and case B—

(a) the case A minimum applies if—

(i) the penalty is one under paragraph 1, and

(ii) HMRC become aware of the failure less than 12 months after the time when the tax first becomes unpaid by reason of the failure, and

(b) otherwise, the case B minimum applies.

Schedule 55 to FA 2009

10 Schedule 55 to FA 2009 (penalties for failure to make returns etc) is amended as follows.

Commencement Information

I18 Sch. 10 para. 10 partly in force; Sch. 10 para. 10 not in force at Royal Assent see s. 35(2); Sch. 10 para. 10 in force for certain purposes at 6.4.2011 by S.I. 2011/975, **art. 2(2)** (with art. 5)

11 (1) Paragraph 6 (amount of penalty if failure continues more than 12 months) is amended as follows.

(2) In sub-paragraph (3)(a), for "100%" substitute " the relevant percentage ".

(3) After sub-paragraph (3) insert—

"(3A) For the purposes of sub-paragraph (3)(a), the relevant percentage is—
(a) for the withholding of category 1 information, 100%,
(b) for the withholding of category 2 information, 150%, and
(c) for the withholding of category 3 information, 200%."

(4) In sub-paragraph (4)(a), for "70%" substitute " the relevant percentage ".

(5) After sub-paragraph (4) insert—

"(4A) For the purposes of sub-paragraph (4)(a), the relevant percentage is—
(a) for the withholding of category 1 information, 70%,
(b) for the withholding of category 2 information, 105%, and
(c) for the withholding of category 3 information, 140%."

(6) After sub-paragraph (5) insert—

"(6) Paragraph 6A explains the 3 categories of information."

Commencement Information

I19 Sch. 10 para. 11 partly in force; Sch. 10 para. 11 not in force at Royal Assent see s. 35(2); Sch. 10 para. 11 in force for certain purposes at 6.4.2011 by S.I. 2011/975, **art. 2(2)** (with art. 5)

12 After paragraph 6 insert—

"6A (1) Information is category 1 information if—
(a) it involves a domestic matter, or
(b) it involves an offshore matter and—
(i) the territory in question is a category 1 territory, or
(ii) it is information which would enable or assist HMRC to assess P's liability to a tax other than income tax or capital gains tax.

(2) Information is category 2 information if—
(a) it involves an offshore matter,
(b) the territory in question is a category 2 territory, and
(c) it is information which would enable or assist HMRC to assess P's liability to income tax or capital gains tax.

(3) Information is category 3 information if—
(a) it involves an offshore matter,
(b) the territory in question is a category 3 territory, and
(c) it is information which would enable or assist HMRC to assess P's liability to income tax or capital gains tax.

(4) Information "involves an offshore matter" if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to—
(a) income arising from a source in a territory outside the UK,
(b) assets situated or held in a territory outside the UK,
(c) activities carried on wholly or mainly in a territory outside the UK, or

(d) anything having effect as if it were income, assets or activities of a kind described above.

(5) Information "involves a domestic matter" if the liability to tax which would have been shown in the return includes a liability to tax charged on or by reference to anything not mentioned in sub-paragraph (4)(a) to (d).

(6) If the information which P withholds falls into more than one category—

(a) P's failure to make the return is to be treated for the purposes of this Schedule as if it were separate failures, one for each category of information according to the matters which the information involves, and

(b) for each separate failure, the liability to tax which would have been shown in the return in question is taken to be such share of the liability to tax which would have been shown in the return mentioned in paragraph (a) as is just and reasonable.

(7) For the purposes of this Schedule—

(a) paragraph 21A of Schedule 24 to FA 2007 (classification of territories) has effect, but

(b) an order under that paragraph does not apply to a failure if the filing date is before the date on which the order comes into force.

(8) Regulations under paragraph 21B of Schedule 24 to FA 2007 (location of assets etc) apply for the purposes of paragraph 6A of this Schedule as they apply for the purposes of paragraph 4A of that Schedule.

(9) In this paragraph—

"assets" has the meaning given in section 21(1) of TCGA 1992, but also includes sterling;

"UK" means the United Kingdom, including the territorial sea of the United Kingdom."

Commencement Information

I20 Sch. 10 para. 12 partly in force; Sch. 10 para. 12 not in force at Royal Assent see s. 35(2); Sch. 10 para. 12 in force for certain purposes at 6.4.2011 by S.I. 2011/975, **art. 2(2)** (with art. 5)

13 (1) Paragraph 15 (reductions for disclosure) is amended as follows.

(2) For sub-paragraphs (1) and (2) substitute—

"(1) If a person who would otherwise be liable to a penalty of a percentage shown in column 1 of the Table (a "standard percentage") has made a disclosure, HMRC must reduce the standard percentage to one that reflects the quality of the disclosure.

(2) But the standard percentage may not be reduced to a percentage that is below the minimum shown for it—

(a) in the case of a prompted disclosure, in column 2 of the Table, and

(b) in the case of an unprompted disclosure, in column 3 of the Table.

Standard %	*Minimum % for prompted disclosure*	*Minimum % for unprompted disclosure*
70%	35%	20%
105%	52.5%	30%
140%	70%	40%
100%	50%	30%
150%	75%	45%
200%	100%	60%”.

(3) Omit sub-paragraphs (3) and (4).

Commencement Information

I21 Sch. 10 para. 13 partly in force; Sch. 10 para. 13 not in force at Royal Assent see s. 35(2); Sch. 10 para. 13 in force for certain purposes at 6.4.2011 by S.I. 2011/975, **art. 2(2)** (with art. 5)

14 In paragraph 17 (interaction with other penalties)—

(a) in sub-paragraph (3), for “100%” substitute “ the relevant percentage ”, and

(b) after that sub-paragraph insert—

“(4) The relevant percentage is—

(a) if one of the penalties is a penalty under paragraph 6(3) or (4) and the information withheld is category 3 information, 200%,

(b) if one of the penalties is a penalty under paragraph 6(3) or (4) and the information withheld is category 2 information, 150%, and

(c) in all other cases, 100%.”

Commencement Information

I22 Sch. 10 para. 14 partly in force; Sch. 10 para. 14 not in force at Royal Assent see s. 35(2); Sch. 10 para. 14 in force for certain purposes at 6.4.2011 by S.I. 2011/975, **art. 2(2)** (with art. 5)

SCHEDULE 11 U.K.

Section 36

Reliefs and reductions for foreign tax

Effect of foreign tax becoming payable

1 (1) Paragraph 3 of Schedule 28AB to ICTA (schemes about effect of paying foreign tax) is amended as follows.

(2) In sub-paragraph (2)—

(a) in paragraph (a), after “paid” insert “ or payable ”, and

(b) in paragraph (b), for "of the payment of that amount of foreign tax on the foreign tax total" substitute " on the foreign tax total of that amount being so paid or payable ".

(3) In sub-paragraph (3)(b), for "the payment by the claimant of that amount of foreign tax" substitute " that amount of foreign tax being paid or payable by the claimant ".

2 (1) Section 85 of TIOPA 2010 (schemes about effect of paying foreign tax) is amended as follows.

(2) In subsection (2)—

(a) for paragraph (a) substitute—

"(a) an amount of foreign tax ("the FT amount") is paid or payable by C, and", and

(b) in paragraph (b), for "of the payment of the FT amount on the foreign-tax total" substitute " on the foreign-tax total of the FT amount being so paid or payable ".

(3) In subsection (3), in paragraph (b) of the definition of "the foreign-tax total", for "the payment by C of the FT amount" substitute " the FT amount being paid or payable by C ".

3 (1) The amendments made by paragraphs 1 and 2 have effect in relation to amounts of foreign tax payable on or after 21 October 2009.

(2) But see paragraph 5 for amounts of foreign tax payable on or after 1 April 2010 (as regards corporation tax) or 6 April 2010 (as regards income tax or capital gains tax).

Schemes about deemed foreign tax

4 (1) In TIOPA 2010, after section 85 insert—

"**85A Section 83(2) and (4): schemes involving deemed foreign tax**

(1) This section applies to a scheme or arrangement if in relation to a claimant—

(a) an amount ("amount X") is treated by virtue of a provision of the Tax Acts as if it were an amount of foreign tax paid or payable by the claimant in respect of a source of income, and

(b) condition A or B is met.

(2) Condition A is met if, when the claimant entered into the scheme or arrangement, it could reasonably be expected that, under the scheme or arrangement, no real foreign tax would be paid or payable by a participant.

(3) Condition B is met if, when the claimant entered into the scheme or arrangement, it could reasonably be expected that, under the scheme or arrangement—

(a) an amount of real foreign tax ("the RFT amount") would be paid or payable by a participant, but

(b) the effect on the foreign-tax total of the RFT amount being so paid or payable would be to increase the foreign-tax total by less than the amount allowable to the claimant as a credit in respect of amount X.

(4) In this section—

"claimant" means a person who for a chargeable period has claimed, or is in a position to claim, for any credit that under the arrangements is to be allowed for foreign tax;

"the foreign-tax total" has the meaning given by section 85(3), except that the reference to "the FT amount being paid or payable by C" must be read as a reference to "the RFT amount being paid or payable by any of them";

"income" includes a chargeable gain;

"participant" means a person who is party to, or concerned in, the scheme or arrangement;

"real foreign tax" means—

(a) in a case involving section 10 (accrued income profits), the foreign tax chargeable in respect of the interest on the securities, as mentioned in subsection (1)(c) of that section,

(b) in a case involving section 792 or 794 of CTA 2010 (manufactured overseas dividends), the foreign tax chargeable in respect of the overseas dividend of which the manufactured overseas dividend is representative, as mentioned in section 790 of that Act, and

(c) in any other case, the foreign tax chargeable in respect of the source of income of which the source mentioned in subsection (1)(a) is representative."

(2) The amendment made by this paragraph has effect in relation to amounts treated as if they were amounts of foreign tax paid or payable on or after 21 October 2009.

(3) A corresponding amendment, having effect in relation to such amounts, is to be treated as having been made in Schedule 28AB to ICTA.

Foreign tax payable by other participants

5 (1) In section 85 of TIOPA 2010 (schemes about effect of paying foreign tax) as amended by paragraph 2—

(a) in subsection (1), for "for foreign tax" substitute " in respect of the payment of an amount of foreign tax ("the FT amount") ",

(b) for subsection (2) substitute—

"(2) The condition is that, when C entered into the scheme or arrangement, it could reasonably be expected that the effect on the foreign-tax total of the FT amount being paid or payable would be to increase that total by less than amount X.", and

(c) in subsection (3)—

(i) for "subsection (2)(b)" substitute " subsection (2) ", and

(ii) in paragraph (b) of the definition of "the foreign-tax total", omit "by C".

(2) In section 85A of TIOPA 2010 (schemes involving deemed foreign tax) as inserted by paragraph 4—

(a) in subsection (1)(a), omit "by the claimant", and

(b) in subsection (4), in the definition of "the foreign-tax total", omit "by C".

(3) The amendments made by this paragraph have effect in relation to amounts of foreign tax, or amounts treated as if they were amounts of foreign tax, payable—

(a) as regards corporation tax, on or after 1 April 2010, and

(b) as regards income tax or capital gains tax, on or after 6 April 2010.

Claims etc made before scheme or arrangement made

6 (1) In section 86 of TIOPA 2010 (schemes about claims or elections etc)—

(a) in subsection (1), omit "under the scheme or arrangement", and

(b) after subsection (3) insert—

"(3A) Reference in subsection (1) to a step that is taken or not taken by a participant includes one that was taken or not taken by a participant before the scheme or arrangement was made.

(3B) The reason for taking or not taking a step does not matter so long as it has the effect mentioned in subsection (1)."

(2) The amendments made by this paragraph have effect in relation to amounts of foreign tax payable—

(a) as regards corporation tax, on or after 1 April 2010, and

(b) as regards income tax or capital gains tax, on or after 6 April 2010.

Limit on reduction for foreign tax

7 (1) In section 112 of TIOPA 2010 (deduction from income for foreign tax), after subsection (2) insert—

"(2A) But if X is less than Y, an amount equal to the difference between X and Y must be subtracted from the amount by which any income of a person ("the relevant income") is reduced under subsection (1)(a).

(2B) In subsection (2A)—

X is the amount of the relevant income that the person would (disregarding this section) be required to bring into account for income tax or corporation tax purposes, less any deduction that the person would be allowed to make for the amount paid in respect of non-UK tax, and

Y is the amount of the relevant income (that is to say, the amount on which the amount in respect of non-UK tax is paid)."

(2) The amendment made by this paragraph has effect in relation to amounts in respect of non-UK tax that are paid—

(a) as regards corporation tax, on or after 1 April 2010, and

(b) as regards income tax, on or after 6 April 2010.

SCHEDULE 12 U.K.

Section 38

TRANSACTIONS IN SECURITIES

Income tax

1 Chapter 1 of Part 13 of ITA 2007 (transactions in securities: income tax advantages) is amended as follows.

2 For sections 682 to 694 substitute—

"Introduction

682 Overview of Chapter

This Chapter makes provision for counteracting income tax advantages from transactions in securities.

683 Provisions of Chapter

(1) Sections 684 to 687 specify when a person is liable to counteraction of income tax advantages from transactions in securities.

(2) Sections 695 to 700 make provision about the procedure for counteraction of such income tax advantages.

(3) Sections 701 and 702 make provision for a clearance procedure.

(4) Section 705 makes provision for appeals against counteraction notices.

(5) Sections 712 deals with cases in which a person liable to counteraction dies.

(6) Section 713 contains interpretative provisions.

Person liable to counteraction of income tax advantages

684 Person liable to counteraction of income tax advantage

(1) This section applies to a person where—

(a) the person is a party to a transaction in securities or two or more transactions in securities (see subsection (2)),

(b) the circumstances are covered by section 685 and not excluded by section 686,

(c) the main purpose, or one of the main purposes, of the person in being a party to the transaction in securities, or any of the transactions in securities, is to obtain an income tax advantage, and

(d) the person obtains an income tax advantage in consequence of the transaction or the combined effect of the transactions.

(2) In this Chapter "transaction in securities" means a transaction, of whatever description, relating to securities, and includes in particular—

(a) the purchase, sale or exchange of securities,

(b) issuing or securing the issue of new securities,

(c) applying or subscribing for new securities, and
(d) altering or securing the alteration of the rights attached to securities.

(3) Section 687 defines "income tax advantage".

(4) This section is subject to—

section 696(3) (disapplication of this section where person receiving preliminary notification that section 684 may apply makes statutory declaration and relevant officer of Revenue and Customs sees no reason to take further action), and

section 697(5) (determination by tribunal that there is no prima facie case that section 684 applies).

685 Receipt of consideration in connection with distribution by or assets of close company

(1) The circumstances covered by this section are circumstances where condition A or condition B is met.

(2) Condition A is that, as a result of the transaction in securities or any one or more of the transactions in securities, the person receives relevant consideration in connection with—

(a) the distribution, transfer or realisation of assets of a close company,
(b) the application of assets of a close company in discharge of liabilities, or
(c) the direct or indirect transfer of assets of one close company to another close company,

and does not pay or bear income tax on the consideration (apart from this Chapter).

(3) Condition B is that—

(a) the person receives relevant consideration in connection with the transaction in securities or any one or more of the transactions in securities,
(b) two or more close companies are concerned in the transaction or transactions in securities concerned, and
(c) the person does not pay or bear income tax on the consideration (apart from this Chapter).

(4) In a case within subsection (2)(a) or (b) "relevant consideration" means consideration which—

(a) is or represents the value of—
  (i) assets which are available for distribution by way of dividend by the company, or
  (ii) assets which would have been so available apart from anything done by the company,
(b) is received in respect of future receipts of the company, or
(c) is or represents the value of trading stock of the company.

(5) In a case within subsection (2)(c) or (3) "relevant consideration" means consideration which consists of any share capital or any security issued by a close company and which is or represents the value of assets which—

(a) are available for distribution by way of dividend by the company,
(b) would have been so available apart from anything done by the company, or
(c) are trading stock of the company.

(6) The references in subsection (2)(a) and (b) to assets do not include assets which are shown to represent a return of sums paid by subscribers on the issue of securities, despite the fact that under the law of the country in which the company is incorporated assets of that description are available for distribution by way of dividend.

(7) So far as subsection (2)(c) or (3) relates to share capital other than redeemable share capital, it applies only so far as the share capital is repaid (on a winding up or otherwise); and for this purpose any distribution made in respect of any shares on a winding up or dissolution of the company is to be treated as a repayment of share capital.

(8) References in this section to the receipt of consideration include references to the receipt of any money or money's worth.

(9) In this section—

“security” includes securities not creating or evidencing a charge on assets;

“share” includes stock and any other interest of a member in a company.

686 Excluded circumstances: fundamental change of ownership

(1) Circumstances are excluded by this section if—
(a) immediately before the transaction in securities (or the first of the transactions in securities) the person (referred to in this section as “the party”) holds shares or an interest in shares in the close company, and
(b) there is a fundamental change of ownership of the close company.

(2) There is a fundamental change of ownership of the close company if—
(a) as a result of the transaction or transactions in securities, conditions A, B and C are met, and
(b) those conditions continue to be met for a period of 2 years.

(3) Condition A is that at least 75% of the ordinary share capital of the close company is held beneficially by—
(a) a person who is not connected with the party and has not been so connected within the period of 2 years ending with the day on which the transaction in securities (or the first of the transactions in securities) takes place, or
(b) persons none of whom is so connected or has been so connected within that period.

(4) Condition B is that shares in the close company held by that person or those persons carry an entitlement to at least 75% of the distributions which may be made by the company.

(5) Condition C is that shares so held carry at least 75% of the total voting rights in the close company.

687 Income tax advantage

(1) For the purposes of this Chapter the person obtains an income tax advantage if—

(a) the amount of any income tax which would be payable by the person in respect of the relevant consideration if it constituted a qualifying distribution exceeds the amount of any capital gains tax payable in respect of it, or

(b) income tax would be payable by the person in respect of the relevant consideration if it constituted a qualifying distribution and no capital gains tax is payable in respect of it.

(2) So much of the relevant consideration as exceeds the maximum amount that could in any circumstances have been paid to the person by way of a qualifying distribution at the time when the relevant consideration is received is to be left out of account for the purposes of subsection (1).

(3) The amount of the income tax advantage is the amount of the excess or (if no capital gains tax is payable) the amount of the income tax which would be payable.

(4) In this section "relevant consideration" has the same meaning as in section 685."

3 In section 698(6) (counteraction notices), omit—

(a) the entry relating to section 699, and

(b) in the entry relating to section 700, "in section 690 cases".

4 Omit section 699 (limit on amount assessed in section 689 and 690 cases).

5 In section 700 (timing of assessments in section 690 cases)—

(a) in subsection (1), for "690 (receipt of relevant company assets (circumstance E))" substitute " 685(2)(c) or (3) ", and

(b) in the heading, omit "**in section 690 cases**".

6 In the heading before section 701, omit "and information powers".

7 (1) Section 713 (interpretation) is amended as follows.

(2) Before the definition of "company" insert—

""close company" includes a company that would be a close company if it were resident in the United Kingdom,".

(3) Omit the definition of "transaction in securities".

Corporation tax

8 Part 15 of CTA 2010 (transactions in securities: corporation tax advantages) is amended as follows.

9 In section 733(2) (company liable to counteraction of corporation tax advantage), omit the entry relating to section 735.

10 Omit section 735 (abnormal dividends used for exemptions or reliefs).

Consequential amendments

11 In section 809S of ITA 2007 (remittance basis: anti-avoidance provisions relating to transfers of mixed funds), for subsection (4) substitute—

"(4) Income tax advantage" means—
(a) a relief from income tax or increased relief from income tax,
(b) a repayment of income tax or increased repayment of income tax,
(c) the avoidance or reduction of a charge to income tax or an assessment to income tax, or
(d) the avoidance of a possible assessment to income tax;

and for this purpose "relief from income tax" includes a tax credit.

(4A) For the purposes of subsection (4)(c) and (d) it does not matter whether the avoidance or reduction is effected—
(a) by receipts accruing in such a way that the recipient does not pay or bear income tax on them, or
(b) by a deduction in calculating profits or gains."

12 (1) Schedule 4 to that Act (index of defined expressions) is amended as follows.

(2) After the definition of "close company" insert—

"close company (in Chapter 1 of Part 13)	section 713".

(3) In the entry relating to "income tax advantage (in Chapter 1 of Part 13)", for "683(1)" substitute " 687 ".

(4) In the entry relating to "transaction in securities (in Chapter 1 of Part 13)", for "713" substitute " 684(2) ".

13 In FA 2007, in Schedule 26, omit paragraph 12(11).

14 In CTA 2010, in Schedule 1, omit paragraphs 545 and 546.

Commencement

15 (1) The amendments made by paragraphs 2 to 5, 7 and 11 to 13 (and paragraph 1 so far as relating to them) have effect in relation to income tax advantages obtained on or after 24 March 2010.

(2) The amendment made by paragraph 6 (and paragraph 1 so far as relating to it) are treated as having come into force on 1 April 2009.

(3) The amendments made by paragraphs 8 to 10 have effect in relation to corporation tax advantages obtained on or after 1 April 2010.

(4) The repeals made by paragraph 14 are treated as having come into force on 1 April 2010.

SCHEDULE 13 U.K.

Section 40

UNAUTHORISED UNIT TRUSTS

Amendments of Chapter 13 of Part 15 of ITA 2007

1 (1) Chapter 13 of Part 15 of ITA 2007 (deduction of income tax at source: unauthorised unit trusts) is amended as follows.

(2) In section 941(6) (deemed payments to unit holders and deemed deductions of income tax), after the definition of "deemed deduction", insert—

""deemed income" means the gross amount of income treated as received as mentioned in subsection (1),".

(3) In section 942 (income tax to be collected from trustees) after subsection (5) insert—

"(6) No relief under—

(a) sections 2 and 6 of TIOPA 2010 (double taxation arrangements: relief by agreement), or

(b) section 18(1)(b) and (2) of that Act (relief for foreign tax where no double taxation arrangements),

is allowed in relation to income tax to be collected by virtue of this section."

(4) After section 943 (calculation of trustees' income pool) insert—

"943A Treatment of cases involving double tax relief

(1) This section applies where—

(a) the trustees of an unauthorised unit trust are treated as making deemed payments to unit holders in a tax year ("the current tax year"),

(b) there is a reduction in the income pool in the current tax year, and

(c) the amount of the trustees' double tax relief pool as at the start of the current tax year is greater than zero.

(2) Section 848 (income tax deducted at source treated as income tax paid by recipient) does not apply to the foreign element of the deemed deduction treated as made from any of the deemed payments.

(3) Instead, for the purposes of the Tax Acts—

(a) the foreign element of the deemed deduction is treated as if it were tax payable under the law of a territory outside the United Kingdom with which there are not in force any arrangements under section 2(1) of TIOPA 2010 (double taxation relief by agreement), and

(b) the foreign element of the deemed income represented by the deemed payment is treated as if it were income that—

(i) arises in a territory of the kind mentioned in paragraph (a), and

(ii) is income by reference to which the tax treated under paragraph (a) as payable was computed.

(4) A reference in this Chapter to a reduction in the income pool in a tax year is to the amount (if any) by which—
(a) the amount of the income pool at the start of the tax year, exceeds
(b) the amount of the income pool at the start of the following tax year.

(5) See—

section 943B for provision about references to the "foreign element" of a deemed deduction or deemed income, and

section 943C for provision about the calculation of the trustees' double tax relief pool as at the beginning of a tax year.

943B The "foreign element" of a deemed deduction or deemed income

(1) References in this Chapter to the "foreign element" of—
(a) a deemed deduction treated as made in a tax year, or
(b) deemed income treated as received in a tax year,

are to the deemed deduction or deemed income multiplied by the relevant fraction.

(2) For this purpose "the relevant fraction" means—

$$\frac{A}{B}$$

where—

A is—
(a) the reduction in the income pool in the tax year multiplied by the basic rate for the year, or
(b) if lower, the amount of the trustees' double tax relief pool as at the start of the tax year;

B is the total of the deemed deductions treated as made in the tax year.

943C Calculation of trustees' double tax relief pool

(1) This is how the amount of the trustees' double tax relief pool as at the start of a tax year ("the current tax year") is calculated.

(2) The trustees' double tax relief pool as at the start of the current tax year is—

$$A + B - C$$

where—

A is—

(a) the amount of the trustees' double tax relief pool as at the start of the previous tax year, or

(b) if the current tax year is the tax year during which the unauthorised unit trust is established, or the trustees have been UK resident for no tax year prior to the current tax year, nil;

B is the amount of the reduction, if any, in the liability of the trustees to income tax in the previous tax year under—

(a) sections 2 and 6 of TIOPA 2010 (double taxation arrangements: relief by agreement), or

(b) section 18(1)(b) and (2) of TIOPA 2010 (relief for foreign tax where no double taxation arrangements);

C is the sum of the foreign elements (if any) of deemed deductions from deemed payments treated as made in the previous tax year.

(3) If the trustees were non-UK resident for the previous tax year, references in subsection (2) to the previous tax year are to be read as references to the last tax year prior to the current tax year for which the trustees were UK resident.

943D Annual statements

(1) This section applies in relation to any tax year in which the trustees of an unauthorised unit trust are treated as making a deemed payment to a unit holder.

(2) The trustees must, as soon as reasonably practicable after the end of the tax year, give the unit holder a statement (an "annual statement").

(3) The annual statement must include the following information in relation to each deemed payment treated as made by the trustees to the unit holder in the tax year—

(a) the date on which the deemed payment was treated as made,

(b) the gross amount of the deemed payment,

(c) the foreign element (if any) of the deemed income represented by the deemed payment,

(d) the deemed deduction made from the deemed payment, and

(e) the foreign element (if any) of that deemed deduction.

(4) The duties imposed by this section are enforceable by the unit holder."

Consequential amendments

2 (1) In section 550 of ITTOIA 2005 (distributions from unauthorised unit trusts: income tax treated as paid), after "is" insert " , subject to section 943A of that Act (treatment of cases involving double tax relief), ".

(2) In section 848 of ITA 2007 (income tax deducted at source treated as income tax paid by the recipient), at the end insert—

"(4) In relation to income tax deducted at source under section 941 (unauthorised unit trusts), this section is subject to section 943A (treatment of cases involving double tax relief)."

(3) In Schedule 4 to that Act (index of defined expressions), insert at the appropriate places—

"deemed income (in Chapter 13 of Part 15)	section 941(6)"
"foreign element (in Chapter 13 of Part 15)	section 943B".

(4) In section 971 of CTA 2009 (distributions from unauthorised unit trusts: overview of Chapter), in subsection (2)(a), after "is" insert " , subject to section 943A of that Act (treatment of cases involving double tax relief), ".

Commencement

3 The amendments made by this Schedule have effect in relation to payments treated under section 941(2) of ITA 2007 as made on or after 21 October 2009.

Transitional provision: opening value of trustees' double tax relief pool

4 (1) This paragraph applies, and section 943C of ITA 2007 does not apply, in relation to the determination of the amount of the trustees' double tax relief pool as at the start of the tax year 2009-10.

(2) That amount is—

(a) if amounts A and B are both greater than £20,000, the lower of those amounts, and

(b) in any other case, nil.

(3) Amount A is the sum of—

(a) any amount by which the liability of the trustees to income tax for the tax year 2007-08 is reduced under—

(i) sections 2 and 6 of TIOPA 2010 (double taxation arrangements: relief by agreement), or

(ii) section 18(1)(b) and (2) of that Act (relief for foreign tax where no double taxation arrangements), and

(b) any amount by which the liability of the trustees to income tax for the following tax year is so reduced.

(4) Amount B is 20% of the amount (if any) of the trustees' income pool as at the start of the tax year 2009-10 (calculated in accordance with section 943 of ITA 2007).

SCHEDULE 14 U.K.

Section 41

INDEX-LINKED GILT-EDGED SECURITIES

Amendments of Chapter 12 of Part 5 of CTA 2009

1 Chapter 12 of Part 5 of CTA 2009 (loan relationships: special rules for particular kinds of securities) is amended as follows.

2 In section 398(2) (overview of Chapter), for paragraph (a) substitute—

“(a) sections 399 to 400C (index-linked gilt-edged securities),

(aa) sections 401 to 405 (other gilt-edged securities),”.

3 For the heading before section 399 substitute— “ Index-linked gilt-edged securities ”.

4 (1) Section 399 (index-linked gilt-edged securities: basic rules) is amended as follows.

(2) For the heading substitute “ **Basic rules** ”.

(3) For subsection (3) substitute—

“(3) For provision requiring adjustments to be made to amounts determined under subsection (2), see sections 400 to 400C (adjustments for changes in index).”

(4) F3. . . . .

Textual Amendments

F3 Sch. 14 para. 4(4) omitted (19.7.2011 with effect as mentioned in s. 60(4) of the amending Act) by virtue of Finance Act 2011 (c. 11), **s. 60(3)**

5 (1) Section 400 (index-linked gilt-edged securities: adjustments for changes in index) is amended as follows.

(2) For the heading substitute “ **Adjustments for changes in index** ”.

(3) In subsection (1)(a)—

(a) for “the amounts” substitute “ an amount ”, and

(b) for “fall” substitute “ falls ”.

(4) After subsection (2) insert—

“(2A) Subsection (2) is subject to sections 400A to 400C (relevant hedging schemes).”

6 After section 400 insert—

“400A Adjustments for changes in index: relevant hedging schemes

(1) This section applies where—

(a) section 400 applies in relation to an amount to be brought into account for an accounting period of a company (“company A”) in respect of a security, and

(b) conditions 1 to 3 are met.

(2) Condition 1 is that company A is a party to a relevant hedging scheme at any time in the accounting period.

(3) Condition 2 is that there is an increase in the retail prices index between the times mentioned in subsection (1) of section 400.

(4) Condition 3 is that the index-linked capital return on the security in the accounting period, or a proportion of it, is hedged.

(5) Where this section applies, any increase in the carrying value of the security at the earlier of the times mentioned in subsection (1) of section 400 that would, apart from this section, be made under subsection (2) of that section is reduced—

(a) in a case in which the index-linked capital return on the security in the accounting period is wholly hedged, to nil, and

(b) in a case in which only a proportion of that return is hedged, by the same proportion.

(6) For the purposes of this section "a relevant hedging scheme" means a scheme the purpose, or one of the main purposes, of any party to which, on entering into the scheme, is to secure that the index-linked capital return on the security, or a proportion of it, is hedged.

(7) For the purposes of this section the "index-linked capital return" of the security is so much of the return on the security as—

(a) would, disregarding section 400, result in an increase in the carrying value of the security between the times mentioned in subsection (1) of that section, and

(b) is attributable to an increase in the retail prices index.

(8) For the purposes of this section the index-linked capital return on the security, or any proportion of that return, is "hedged" if (whether because of the operation of a swap or otherwise) the pre-tax economic profit or loss made by the relevant group or company in the accounting period is unaffected by it.

(9) In subsection (8) "the relevant group or company" means—

(a) company A and every other company that is at any time in the accounting period—

(i) associated with company A, and

(ii) a party to the relevant hedging scheme, or

(b) if there is no such other company, company A.

(10) In this section "scheme" includes any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions.

400B Interpretation of section 400A: economic profits and losses

(1) A reference in section 400A to an "economic" profit or loss made by any person in a period is to a profit or loss made by that person in that period, computed taking into account unrealised (as well as realised) profits and losses.

(2) For the purposes of section 400A an economic profit or loss is made by a group of companies if it is made by the members of the group considered together.

(3) In determining for the purposes of section 400A the amount of an economic profit or loss made by a group of companies in any period, the economic profits and losses of each member of the group are to be computed over that period (whether or not that period is an accounting period of the member).

(4) A reference in section 400A to a "pre-tax" economic profit or loss is a reference to an economic profit or loss determined disregarding any gain or loss made as a result of the operation of any provision of the Corporation Tax Acts.

400C Meaning of "associated with"

(1) For the purposes of section 400A, a company ("company B") is associated with company A at a time ("the relevant time") during an accounting period of company A ("the accounting period") if any of the following five conditions is met.

(2) The first condition is that the financial results of company A and company B, for a period that includes the relevant time, meet the consolidation condition.

(3) The second condition is that there is a connection between company A and company B for the accounting period.

(4) The third condition is that, at the relevant time, company A has a major interest in company B or company B has a major interest in company A.

(5) The fourth condition is that—
   (a) the financial results of company A and a third company, for a period that includes the relevant time, meet the consolidation condition, and
   (b) at the relevant time the third company has a major interest in company B.

(6) The fifth condition is that—
   (a) there is a connection between company A and a third company for the accounting period, and
   (b) at the relevant time the third company has a major interest in company B.

(7) In this paragraph the financial results of any two companies for any period meet "the consolidation condition" if—
   (a) they are required to be comprised in group accounts prepared under section 399 of the Companies Act 2006 (duty of certain parent companies to prepare group accounts), or
   (b) they would be required to be comprised in such accounts but for the application of an exemption mentioned in subsection (3) of that section.

(8) Section 466 (companies connected for an accounting period) applies for the purposes of this section.

(9) In this section “scheme” includes any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions.

Other gilt-edged securities ”.

Consequential amendment

7 In section 317(5)(g) of CTA 2009 (carrying value), for “and 400” substitute “ to 400C ”.

Commencement

8 The amendments made by this Schedule have effect in relation to adjustments made under section 400(2) of CTA 2009 in respect of increases in the retail prices index over periods beginning on or after 9 December 2009.

Transitional provision

9 (1) This paragraph applies in relation to an accounting period of a company beginning before 9 December 2009 if, apart from this paragraph—

(a) an amount to be brought into account for the purposes of Part 5 of CTA 2009 in respect of an index-linked gilt-edged security falls to be determined by reference to its value at two different times, and

(b) the earlier time is before 9 December 2009 and the later time is on or after that date.

(2) Instead of bringing into account the amount determined as mentioned in sub-paragraph (1)(a), the company is to bring into account the amounts that it would have brought into account for—

(a) that part of the accounting period that falls before 9 December 2009, and

(b) that part of the accounting period that falls on or after that date,

had those parts been separate periods of account (and so separate accounting periods).

SCHEDULE 15 U.K.

Section 44

CONNECTED COMPANIES: RELEASES OF DEBTS

Amendments of section 322 of CTA 2009

1 (1) Section 322 of CTA 2009 (release of debts: cases where credits not required to be brought into account) is amended as follows.

(2) In subsection (4), after “release is” insert “ not a release of relevant rights and is ”.

(3) After that subsection insert—

“(4A) Relevant rights” has the same meaning for the purposes of this section as it has for the purposes of section 358.”

Amendments of Chapter 6 of Part 5 of CTA 2009

2 (1) Chapter 6 of Part 5 of CTA 2009 (connected companies relationships: release of debts etc) is amended as follows.

(2) In section 353(2)(b) (introduction to Chapter), for "except where the release is a deemed release under section 361 or 362" substitute " subject to some exceptions ".

(3) In section 358 (exclusion of credits on release of connected companies debts: general)—

(a) in subsection (1)(a), for "a company's debtor relationship is released," substitute " a debtor relationship of a company ("D") is released, and ",

(b) in subsection (2), for "The company" substitute " D " and for "it is a deemed release" substitute

"(a) it is a deemed release, or

(b) it is a release of relevant rights.", and

(c) at the end insert—

"(4) For the purposes of this section "relevant rights" means rights of a company ("C") that—

(a) were acquired by C in circumstances that, but for the application of the corporate rescue exception or the debt-for-debt exception, would have resulted in a deemed release under section 361(3), or

(b) were acquired by another company in such circumstances and transferred to C by way of an assignment or assignments.

(5) The amount of the credit that D is required to bring into account in respect of a release of relevant rights is—

(a) the amount of the discount received on the acquisition, less

(b) the sum of any credits brought into account in respect of that amount (whether in the accounting period in which the release takes place or in a previous accounting period) by C or, in a case within subsection (4)(b), by the company that acquired the rights or any company to which the rights were subsequently assigned.

(6) A reference in subsection (5) to the amount of the discount received on the acquisition is to the amount that would have been treated as released under section 361(4) on the acquisition, but for the application of the corporate rescue exception or the debt-for-debt exception."

(4) In section 361 (acquisition of creditor rights by connected company at undervalue)—

(a) in subsection (1), for paragraph (f) substitute—

"(f) no relevant exception applies.", and

(b) for subsection (2) substitute—

"(2) In subsection (1) "relevant exception" means—

(a) the corporate rescue exception (see section 361A),

(b) the debt-for-debt exception (see section 361B), or

(c) the equity-for-debt exception (see section 361C).”

(5) After section 361 insert—

“361A The corporate rescue exception

(1) For the purposes of section 361, the “corporate rescue exception” applies if—

(a) the acquisition is an arm's length transaction,

(b) there has been a change in the ownership of D at any time in the period beginning one year before, and ending 60 days after, the date of the acquisition,

(c) it is reasonable to assume that, but for the change in ownership, D would, within one year of the date of the change of ownership, have met one of the insolvency conditions, and

(d) it is reasonable to assume that, but for the change in ownership, the acquisition would not have been made.

(2) Subject to subsection (3), section 769 of ICTA (rules for ascertaining change in ownership of company) applies for the purpose of construing a reference in this section to a change in the ownership of a company.

(3) A reference in this section to a change in the ownership of a company, in the case of a company that is a building society, is a reference to—

(a) an amalgamation of two or more building societies under section 93 of the Building Societies Act 1986,

(b) a transfer of all the engagements of one building society to another under section 94 of that Act, or

(c) a transfer of the whole of the business of a building society to a company under section 97 of that Act.

(4) Sections 322(6) and 323 (insolvency conditions) apply for the purposes of this section.

361B The debt-for-debt exception

(1) For the purposes of section 361, the “debt-for-debt exception” applies if condition 1 or 2 is met.

(2) Condition 1 is that—

(a) the acquisition is an arm's length transaction,

(b) the rights that are acquired are rights under a loan relationship that is represented by a security (“the old security”),

(c) the consideration given by C for the acquisition consists only of a security (“the new security”) representing a loan relationship to which C is a party as debtor, and

(d) the new security—

(i) has the same nominal value as the old security, and

(ii) at the time of the acquisition, has substantially the same market value as the old security.

(3) Condition 2 is that—

(a) the acquisition is an arm's length transaction,
(b) the rights that are acquired are rights under a loan relationship that is represented by an asset other than a security ("the old unsecured loan"),
(c) the consideration given by C for the acquisition consists only of an asset other than a security ("the new unsecured loan") representing a loan relationship to which C is a party as debtor, and
(d) the amount of the new unsecured loan, and its terms, are substantially the same as those of the old unsecured loan.

(4) In this section "market value" has the same meaning as in TCGA 1992 (see sections 272 and 273 of that Act).

(5) In determining for the purposes of this section the market value of a security in a case in which the security represents a loan relationship to which section 415 (loan relationships with embedded derivatives) applies, rights or liabilities within subsection (1)(b) of that section are to be treated as comprised in the loan relationship.

361C The equity-for-debt exception

(1) For the purposes of section 361 the "equity-for-debt exception" applies if the following two conditions are met.

(2) The first condition is that the acquisition is an arm's length transaction.

(3) The second condition is that the consideration given by C for the acquisition consists only of—
(a) shares forming part of the ordinary share capital of C,
(b) shares forming part of the ordinary share capital of a company connected with C, or
(c) an entitlement to shares within paragraph (a) or (b)."

(6) In section 363—
(a) in the heading, for "and" substitute " to ", and
(b) in subsections (1) and (4), for "and" substitute " to ".

Commencement

3 (1) The amendments made by paragraph 1 have effect in relation to a release of rights that takes place on or after 9 November 2009.

(2) The amendments made by paragraph 2(2) and (4) to (6) have effect in relation to a relevant acquisition that is made on or after 14 October 2009.

(3) The amendments made by paragraph 2(3) have effect in relation to a release of rights that takes place on or after 14 October 2009.

(4) Sub-paragraphs (1) to (3) are subject to paragraph 4.

(5) In this paragraph and paragraph 4 "relevant acquisition" means an acquisition of rights within subsection (1)(a) to (e) of section 361 of CTA 2009 (acquisition of creditor rights by connected company at an undervalue).

Transitional provision

4 (1) The amendments made by this Schedule do not have effect in relation to a relevant acquisition that is made on or after 14 October 2009, or to a release of rights acquired by way of such an acquisition, if—

(a) the acquisition is made pursuant to an agreement entered into before 14 October 2009, or

(b) the acquisition is made during the transitional period and condition A, B or C is met.

(2) Condition A is that, before 14 October 2009—

(a) the original creditor received a proposal from the new creditor that the acquisition should be made, or

(b) the new creditor received a proposal from the original creditor that the acquisition should be made.

(3) Condition B is that—

(a) the acquisition is of rights under a loan relationship that is represented by a security,

(b) during the transitional period the new creditor acquires rights under other loan relationships represented by securities, and

(c) before 14 October 2009, either—

(i) persons together holding more than 50% by value of the securities referred to in paragraphs (a) and (b) ("the bought-back securities") received proposals from the new creditor that the acquisitions should be made, or

(ii) the new creditor received proposals from persons together holding more than 50% by value of the bought-back securities that the acquisitions should be made.

(4) In sub-paragraphs (2) and (3)—

(a) a reference to the original creditor includes any person acting on behalf of, or who controls, the original creditor,

(b) a reference to the new creditor includes any person acting on behalf of, or who controls, the new creditor, and

(c) a reference to a person holding a security includes any person acting on behalf of, or who controls, the person holding the security.

(5) Condition C is that—

(a) before 14 October 2009, the Financial Services Authority gave its agreement ("the FSA agreement") to the acquisition being made (and had not withdrawn that agreement),

(b) if the FSA agreement was given subject to the agreement of any other person, the agreement of that other person was also given (and not withdrawn) before that date, and

(c) condition A or B would have been met but for the compliance by the original creditor or the new creditor with any other term on which the FSA agreement was given.

(6) In this paragraph—

(a) "the original creditor", in relation to a relevant acquisition, means the person from whom the rights are acquired, and

(b) "the new creditor", in relation to a relevant acquisition, means the person who acquires the rights.

(7) In this paragraph "the transitional period" means the period—

(a) beginning with 14 October 2009, and

(b) ending with 31 January 2010.

(8) Section 472 of CTA 2009 (meaning of "control") applies for the purposes of this paragraph.

SCHEDULE 16 U.K.

Section 46

RISK TRANSFER SCHEMES

Amendments

1 CTA 2010 is amended as follows.

2 In section 1(4) (overview of Act) omit the "and" at the end of paragraph (g), insert " , and " at the end of paragraph (h) and after that paragraph insert—

"(i) risk transfer schemes (see Part 21A)."

3 After Part 21 insert—

"PART 21A U.K.

RISK TRANSFER SCHEMES

Introduction

Overview

937A This Part contains rules about the treatment of certain losses made by companies as a result of risk transfer schemes.

Group schemes and single company schemes

937B(1) A risk transfer scheme may be—

(a) a group scheme, or

(b) a risk transfer scheme other than a group scheme (a "single-company scheme").

(2) A risk transfer scheme to which a company ("company A") is a party is a "group scheme" if at least one company other than company A is at any time both—

(a) associated with company A, and

(b) a party to the scheme.

(3) In this Part "the relevant group" means—

(a) company A, and

(b) each company other than company A in relation to which the condition in subsection (2) is met.

(4) In its application in relation to single company schemes, this Part applies subject to the following modifications.

(5) The modifications are that—

(a) references to the relevant group, a member of the relevant group, or the members of the relevant group, are treated as references to company A, and

(b) sections 937E(2) and 937L(2) are treated as omitted.

Basic definitions

Meaning of "risk transfer scheme"

937C(1) A scheme to which a company ("company A") is a party is a "risk transfer scheme" if conditions 1 to 3 are met.

(2) Condition 1 is that the purpose, or one of the main purposes, of any member of the relevant group on entering into the scheme is to obtain a financial advantage for the relevant group that it is reasonable to assume could not otherwise have been obtained without the relevant group becoming subject to (or incurring the cost of avoiding) a relevant risk.

(3) In subsection (2) "a relevant risk" means a risk that the relevant group would make economic losses in one or more accounting periods of company A as a result of fluctuations in—

(a) the rate of exchange between any two currencies,

(b) the retail prices index (or any similar general index of prices) or any other index, or

(c) any price or other value.

(4) Condition 2 is that, as a result of the scheme, and disregarding the effect of this Part, the relevant group—

(a) is not subject to the relevant risk, or

(b) is subject only to a negligible proportion of that risk.

(5) Condition 3 is that, disregarding the effect of the provisions of the Corporation Tax Acts, condition 2 would not be met.

(6) For the purposes of this section the relevant group obtains a "financial advantage" from a scheme if, taking into account the effect of the scheme on each member of the group, the scheme—

(a) increases the return on any investment,

(b) reduces the costs of any borrowing, or

(c) has an effect economically equivalent to that mentioned in paragraph (a) or (b).

Meaning of "the scheme rate, index or value"

937D In this Part "the scheme rate, index or value", in relation to a risk transfer scheme, means the rate, index or value mentioned in section 937C(3)(a), (b) or (c) in relation to the relevant risk for the scheme.

Scheme losses and scheme profits

937E (1) A loss or profit made by a company in an accounting period is a "scheme loss" or "scheme profit" in relation to a risk transfer scheme to which the company is a party at any time in the period if the loss or profit—

(a) is from a loan relationship, or derivative contract, that is part of the scheme,

(b) would, apart from this Part, be brought into account in determining a debit or credit for the purposes of Part 5 of CTA 2009 (loan relationships) or Part 7 of that Act (derivative contracts), and

(c) arises as a result of fluctuations in the scheme rate, index or value.

(2) References in this Part to a scheme loss or scheme profit made by a company in a period that is not an accounting period of that company are to the scheme loss or scheme profit that the company would have made in the period from the loan relationship or derivative contract in question if the period had been an accounting period of the company.

(3) References in this section to a loss or profit from a loan relationship or a derivative contract include—

(a) a loss or profit from a related transaction, and

(b) a loss or profit of a capital nature.

(4) In subsection (3)(a) "related transaction" has the meaning given by—

(a) section 304 of CTA 2009 (in relation to a loan relationship), or

(b) section 596 of that Act (in relation to a derivative contract).

Ring-fenced scheme losses and relevant scheme profits

937F (1) Subsection (2) applies if—

(a) a company makes one or more scheme losses in an accounting period in relation to a risk transfer scheme, and

(b) disregarding any profits or losses made otherwise than as a result of the scheme, the relevant group makes a pre-tax economic loss in the period as a result of fluctuations in the scheme rate, index or value.

(2) The relevant proportion of each scheme loss made by the company in the accounting period is a "ring-fenced scheme loss".

(3) For this purpose "the relevant proportion" means—

$$\frac{A - B - C}{A}$$

where—

A is the total of the scheme losses made in the period in relation to the scheme by the members of the relevant group,

B is the total of the scheme profits made in the period in relation to the scheme by the members of the relevant group, and

C is the pre-tax economic loss referred to in subsection (1)(b).

(4) Subsection (5) applies if—

(a) a company makes one or more scheme profits in an accounting period in relation to a risk transfer scheme, and

(b) disregarding any profits or losses made otherwise than as a result of the scheme, the relevant group makes a pre-tax economic profit in the period as a result of fluctuations in the scheme rate, index or value.

(5) The relevant proportion of each scheme profit made by the company in the accounting period is a "relevant scheme profit".

(6) For this purpose "the relevant proportion" means—

$$\frac{A - B - C}{A}$$

where—

A is the total of the scheme profits made in the period in relation to the scheme by the members of the relevant group,

B is the total of the scheme losses made in the period in relation to the scheme by the members of the relevant group, and

C is the pre-tax economic profit referred to in subsection (4)(b).

Treatment of ring-fenced scheme losses

Ring-fenced scheme loss: treatment in period in which made

937G (1) This section applies for the purpose of determining the amount (if any) of a ring-fenced scheme loss that may be brought into account by a company in the accounting period in which it is made.

(2) If the amount of the company's profits pool for the scheme as at the beginning of the period is nil, the ring-fenced scheme loss may not be brought into account.

(3) If the amount of the company's profits pool for the scheme as at the beginning of the period is—

(a) greater than nil, and

(b) less than the total of the ring-fenced scheme losses made in the period in relation to the scheme by the company,

only the relevant proportion of the ring-fenced scheme loss may be brought into account.

(4) For this purpose "the relevant proportion" means—

$$\frac{A}{B}$$

where—

A is the amount of the company's profits pool as at the beginning of the period, and

B is the total of the ring-fenced scheme losses made in the period in relation to the scheme by the company.

(5) If the amount of the company's profits pool for the scheme as at the beginning of the period is equal to or greater than the total of the ring-fenced scheme losses made in the period in relation to the scheme by the company, the ring-fenced scheme loss may be brought into account in full.

(6) A reference in this paragraph to bringing a ring-fenced scheme loss into account is to bringing it into account in determining a debit or credit for the purposes of Part 5 of CTA 2009 (loan relationships) or Part 7 of that Act (derivative contracts).

Ring-fenced scheme loss: treatment in subsequent periods

937H(1) This section applies where—

(a) a company makes one or more scheme profits in an accounting period in relation to a risk transfer scheme,

(b) disregarding any profits or losses made otherwise than as a result of the scheme, the relevant group makes a pre-tax economic profit in the period as a result of fluctuations in the scheme rate, index or value, and

(c) the amount of the company's losses pool for the scheme as at the beginning of the period is greater than nil.

(2) The company may bring into account, as if it were a loss made in the period from a loan relationship—

$$A \times B$$

where—

A is so much of the amount of the company's losses pool as at the beginning of the period as does not exceed the total of the relevant scheme profits made in the period in relation to the scheme by the company, and

B is the proportion of the total of the relevant scheme profits made in the period in relation to the scheme by the company that consists of profits made from its loan relationships.

(3) The company may bring into account, as if it were a loss made in the period from a derivative contract—

$$A \times C$$

where—

A has the same meaning as in subsection (2), and

C is the proportion of the total of the relevant scheme profits made in the period in relation to the scheme by the company that consists of profits made from its derivative contracts.

(4) A reference in this section to bringing an amount into account is to bringing it into account in determining a debit or credit for the purposes of Part 5 of CTA 2009 (loan relationships) or Part 7 of that Act (derivative contracts).

A company's losses pool and profits pool

A company's losses pool and profits pool

937(1) The amount of a company's losses pool for a risk transfer scheme as at the beginning of an accounting period ("the current accounting period") is—

$$A + B - C$$

where—

A is—

(a) the amount of the pool as at the beginning of the previous accounting period, or
(b) if the risk transfer scheme began in the current accounting period, nil,

B is the total amount, if any, of ring-fenced scheme losses made in the previous accounting period in relation to the scheme by the company that, as a result of the application of section 937G(2) or (3), are not brought into account in that period, and

C is the total amount (if any) that, as a result of the application of section 937H(2) or (3), is brought into account in the previous accounting period in relation to the scheme by the company.

(2) The amount of a company's profits pool for a risk transfer scheme as at the beginning of an accounting period ("the current accounting period") is—

$$A + B - C$$

where—

A is—

(a) the amount of the pool as at the beginning of the previous accounting period, or

(b) if the risk transfer scheme began in the current accounting period, nil,

B is—

(a) the total of any relevant scheme profits made in the previous accounting period in relation to the scheme by the company, less

(b) the total amount (if any) that, as a result of the application of section 937H(2) or (3), is brought into account in that accounting period in relation to the scheme by the company, and

C is the total amount (if any) of ring-fenced scheme losses made in the previous accounting period in relation to the scheme by the company that, as a result of the application of section 937G(3) or (5), are brought into account in that period.

General

Tax capacity assumption

937I (1) This section applies for the purpose of determining whether condition 2 in section 937C is met.

(2) Where a member of the relevant group ("the company") makes a scheme loss in an accounting period, the economic profits and losses made by the relevant group in the period must be calculated on the assumption that the company obtained the full tax benefit of the loss.

(3) The "full tax benefit" of the loss is the reduction in the corporation tax liability of the company that would result if—

(a) the loss were brought into account, and

(b) the company's profits chargeable to corporation tax, before doing so, were equal to the debit (or the reduction in any credit) determined by reference to the loss.

(4) A reference in this section to bringing a loss into account is to bringing it into account in determining a debit or credit for the purposes of Part 5 of CTA 2009 (loan relationships) or Part 7 of that Act (derivative contracts).

Meaning of "associated with"

937K (1) For the purposes of this Part a company ("company B") is associated with another company ("company A") at a time ("the relevant time") if any of the following five conditions is met.

(2) The first condition is that the financial results of company A and company B, for a period that includes the relevant time, meet the consolidation condition.

(3) The second condition is that there is a connection between company A and company B for the accounting period of company A in which the relevant time falls.

(4) The third condition is that, at the relevant time, company A has a major interest in company B or company B has a major interest in company A.

(5) The fourth condition is that—

(a) the financial results of company A and a third company, for a period that includes the relevant time, meet the consolidation condition, and

(b) at the relevant time the third company has a major interest in company B.

(6) The fifth condition is that—

(a) there is a connection between company A and a third company for the accounting period of company A in which the relevant time falls, and

(b) at the relevant time the third company has a major interest in company B.

(7) In this section the financial results of any two companies for any period meet "the consolidation condition" if—

(a) they are required to be comprised in group accounts prepared under section 399 of the Companies Act 2006 (duty of certain parent companies to prepare group accounts), or

(b) they would be required to be comprised in such accounts but for the application of an exemption mentioned in subsection (3) of that section.

(8) The following provisions apply for the purposes of this section—

sections 466 to 471 of CTA 2009 (companies connected for accounting period), and

sections 473 and 474 of CTA 2009 (meaning of "major interest").

Interpretation of references to economic losses and profits

937L (1) A reference in this Part to an "economic" loss or profit made by any person in a period is to a loss or profit made by that person in that period, computed taking into account unrealised (as well as realised) losses and profits.

(2) For the purposes of this Part an economic loss or profit is made "by the relevant group" if it is made by the members of the relevant group considered together.

(3) Where—

(a) any member of the relevant group makes a scheme loss or profit in an accounting period, and

(b) that scheme loss or profit is, under generally accepted accounting practice, calculated by reference to fluctuations in the scheme rate, index or value over a longer period,

the economic loss or profit made by the group in the accounting period as a result of those fluctuations is, so far as it relates to that scheme loss or profit, to be computed over that longer period.

(4) In determining for the purposes of this Part the amount of an economic loss or profit made by the relevant group in any period, the economic losses and profits of each member of the relevant group—

(a) are (subject to subsection (3)) to be computed over that period (whether or not that period is an accounting period of the member), but

(b) are only to be taken into account to the extent that they are attributable to times at which the member is a party to the risk transfer scheme in question.

(5) A reference in this Part to a "pre-tax" economic loss or profit is a reference to an economic loss or profit determined disregarding any loss or gain made as a result of the operation of any provision of the Corporation Tax Acts.

Foreign currency accounting

937M (1) In determining under this Part amounts that a company may or may not bring into account in an accounting period, economic losses and profits are to be computed in the tax calculation currency of that company in that accounting period.

(2) Section 17(5) of CTA 2010 (meaning of references to the tax calculation currency of a company) applies for the purposes of this section.

Meaning of "scheme"

937N In this Part "scheme" includes any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable, involving a single transaction or two or more transactions.

Power to amend this Part

Power to amend this Part in its application to dealers in securities

937O (1) The Treasury may by order amend any enactment contained in this Part so as to apply (with or without modifications) the rules in this Part about scheme losses and scheme profits to losses and profits made in a trade.

(2) The power conferred by subsection (1) may only be exercised in relation to losses and profits made by a company that carries on a banking business, an insurance business or a business consisting wholly or partly of dealing in securities.

(3) In this section "securities" includes—

(a) shares,

(b) rights of unit holders in unit trust schemes to which TCGA 1992 applies as a result of section 99 of that Act, and

(c) in the case of a company with no share capital, interests in the company possessed by members of the company.

(4) An order under this section—

(a) may make different provision for different cases or purposes, and

(b) may include incidental, consequential, supplementary or transitional provision."

4 In Schedule 4 (index of defined expressions), insert at the appropriate places—

"associated with (in Part 21A)	section 937K"
"economic loss (in Part 21A)	section 937L"
"economic profit (in Part 21A)	section 937L"
"the relevant group (in Part 21A)	section 937B(3)"
"relevant scheme profit (in Part 21A)	section 937F"
"ring-fenced scheme loss (in Part 21A)	section 937F"
"risk transfer scheme (in Part 21A)	section 937C"
"scheme (in Part 21A)	section 937N"
"scheme loss (in Part 21A)	section 937E"
"scheme profit (in Part 21A)	section 937E"
"the scheme rate, index or value (in Part 21A)	section 937D"

Commencement and transitional provision

5 (1) The amendments made by this Schedule have effect in relation to accounting periods that begin on or after 1 April 2010 ("the commencement date").

(2) Where a company has an accounting period ("the straddling accounting period") that—

(a) begins before the commencement date, and

(b) ends on or after that date,

the straddling accounting period is to be treated as split.

(3) Where this paragraph provides that the straddling accounting period is to be treated as split, that part of the straddling accounting period that falls before the commencement date and that part of the straddling accounting period that falls on or after that date are to be treated for the purposes of the amendments made by this Schedule as separate accounting periods.

(4) In relation to the first accounting period of a company in relation to which the amendments made by this Schedule have effect—

(a) section 937I of CTA 2010 (as inserted by paragraph 3 above) does not apply, and

(b) as at the beginning of the period, the amounts of the company's losses pool and profits pool for any risk transfer scheme to which the company is a party is nil.

SCHEDULE 17 U.K.

Section 56

DISCLOSURE OF TAX AVOIDANCE SCHEMES

Introduction

1 Part 7 of FA 2004 (disclosure of tax avoidance schemes) is amended as follows.

Initial marketing

2 (1) Section 307 (meaning of "promoter") is amended as follows.

(2) In paragraph (a) of subsection (1), for the words from "business" to "makes" substitute "business, the person ("P")—

"(i) is to any extent responsible for the design of the proposed arrangements,

(ii) makes a firm approach to another person ("C") in relation to the notifiable proposal with a view to P making the notifiable proposal available for implementation by C or any other person, or

(iii) makes".

(3) In paragraph (b) of that subsection, after "(a)(ii)" insert " or (iii) ".

(4) After subsection (1) insert—

"(1A) For the purposes of this Part a person is an introducer in relation to a notifiable proposal if the person makes a marketing contact with another person in relation to the notifiable proposal."

(5) After subsection (4) insert—

"(4A) For the purposes of this Part a person makes a firm approach to another person in relation to a notifiable proposal if the person makes a marketing contact with the other person in relation to the notifiable proposal at a time when the proposed arrangements have been substantially designed.

(4B) For the purposes of this Part a person makes a marketing contact with another person in relation to a notifiable proposal if—

(a) the person communicates information about the notifiable proposal to the other person,

(b) the communication is made with a view to that other person, or any other person, entering into transactions forming part of the proposed arrangements, and

(c) the information communicated includes an explanation of the advantage in relation to any tax that might be expected to be obtained from the proposed arrangements.

(4C) For the purposes of subsection (4A) proposed arrangements have been substantially designed at any time if by that time the nature of the transactions to form part of them has been sufficiently developed for it to be reasonable to believe that a person who wished to obtain the advantage mentioned in subsection (4B)(c) might enter into—

(a) transactions of the nature developed, or

(b) transactions not substantially different from transactions of that nature."

(6) In subsection (5), after "promoter" insert " or introducer ".

(7) In subsection (6), after "promoter" (in both places) insert " or introducer ".

3 (1) Section 308(2) (duties of promoter) is amended as follows.

(2) For "earlier" substitute " earliest ".

(3) Before paragraph (a) insert—

"(za) the date on which the promoter first makes a firm approach to another person in relation to a notifiable proposal,".

4 In section 313A(1) (pre-disclosure enquiry), for "of a proposal or arrangements" substitute " or introducer of a proposal, or the promoter of arrangements, ".

5 In section 318(1) (interpretation), after the definition of "HMRC" insert—

""introducer", in relation to a notifiable proposal, has the meaning given by section 307;

"make a firm approach" has the meaning given by section 307(4A);

"make a marketing contact" has the meaning given by section 307(4B);".

Promoters to provide client lists

6 After section 313 insert—

"313ZA Duty to provide details of clients

(1) This section applies where a person who is a promoter in relation to notifiable arrangements is providing (or has provided) services to any person ("the client") in connection with the notifiable arrangements and either—

(a) the promoter is subject to the reference number information requirement, or

(b) the promoter has failed to comply with section 308(1) or (3) in relation to the notifiable arrangements (or the notifiable proposal for them) but would be subject to the reference number information requirement if a reference number had been allocated to the notifiable arrangements.

(2) For the purposes of this section "the reference number information requirement" is the requirement under section 312(2) to provide to the client prescribed information relating to the reference number allocated to the notifiable arrangements.

(3) The promoter must, within the prescribed period after the end of the relevant period, provide HMRC with prescribed information in relation to the client.

(4) In subsection (3) "the relevant period" means such period during which the promoter is or would be subject to the reference number information requirement as is prescribed.

(5) The promoter need not comply with subsection (3) in relation to any notifiable arrangements at any time after HMRC have given notice under section 312(6) in relation to the notifiable arrangements."

7 In section 316 (information to be provided in manner and form specified by HMRC), for "and 313(1) and (3)" substitute " , 313(1) and (3) and 313ZA(3) ".

8 In section 317(2) (regulations), after "may" insert " make different provision for different cases and may ".

Information provided to introducers

9 After section 313B insert—

"313C Information provided to introducers

(1) Where HMRC suspect—

(a) that a person ("P") is an introducer in relation to a proposal, and

(b) that the proposal may be notifiable,

they may by written notice require P to provide HMRC with prescribed information in relation to each person who has provided P with any information relating to the proposal.

(2) A notice must specify the proposal to which it relates.

(3) P must comply with a requirement under or by virtue of subsection (1) within—

(a) the prescribed period, or

(b) such longer period as HMRC may direct."

Penalties

10 (1) Section 98C of TMA 1970 (penalties for failures to comply with duties relating to disclosure of tax avoidance schemes) is amended as follows.

(2) In subsection (1)(a) (initial penalty for failing to comply with duties), for "£5,000" substitute—

"(i) in the case of a provision mentioned in paragraph (a), (b) or (c) of that subsection, £600 for each day during the initial period (but see also subsections (2A), (2B) and (2ZC) below), and

(ii) in any other case, £5,000."

(3) In subsection (2)—

(a) omit the "and" at the end of paragraph (da),

(b) after that paragraph insert—

"(db) section 313ZA (duty of promoter to provide details of clients),", and

(c) insert at the end "and

(f) section 313C (duty of introducer to give details of persons who have provided information)."

(4) After that subsection insert—

"(2ZA) In this section "the initial period" means the period—

(a) beginning with the relevant day, and

(b) ending with the earlier of the day on which the penalty under subsection (1)(a)(i) is determined and the last day before the failure ceases;

and for this purpose "the relevant day" is the day specified in relation to the failure in the following table.

Failure	***Relevant day***
A failure to comply with subsection (1) or (3) of section 308 in so far as the subsection applies by virtue of an order under section 306A	The first day after the end of the period prescribed under section 306A(6)
A failure to comply with subsection (1) or (3) of section 308 in so far as the subsection applies by virtue of an order under section 308A(2)	The first day after the end of the period prescribed under subsections (5) and (6)(a) of section 308A (as it may have been extended by a direction under subsection (6)(b) of that section)
Any other failure to comply with subsection (1) of section 308	The first day after the end of the period prescribed under that subsection
Any other failure to comply with subsection (3) of section 308	The first day after the end of the period prescribed under that subsection
A failure to comply with subsection (1) of section 309	The first day after the end of the period prescribed under that subsection
A failure to comply with section 310	The first day after the latest time by which section 310 must be complied with in the case concerned

(2ZB) The amount of a penalty under subsection (1)(a)(i) is to be arrived at after taking account of all relevant considerations, including the desirability of its being set at a level which appears appropriate for deterring the person, or other persons, from similar failures to comply on future occasions having regard (in particular)—

(a) in the case of a penalty for a person's failure to comply with section 308(1) or (3), to the amount of any fees received, or likely to have been received, by the person in connection with the notifiable proposal (or arrangements implementing the notifiable proposal), or with the notifiable arrangements, and

(b) in the case of a penalty for a person's failure to comply with section 309(1) or 310, to the amount of any advantage gained, or sought to be gained, by the person in relation to any tax prescribed under section 306(1)(b) in relation to the notifiable arrangements.

(2ZC) If the maximum penalty under subsection (1)(a)(i) above appears inappropriately low after taking account of those considerations, the penalty is to be of such amount not exceeding £1 million as appears appropriate having regard to those considerations.

(2ZD) Where it appears to an officer of Revenue and Customs that a penalty under subsection (1)(a)(i) above has been determined on the basis that the initial period begins with a day later than that which the officer considers to be the relevant day, an officer of Revenue and Customs may commence proceedings for a re-determination of the penalty.

(2ZE) The Treasury may by regulations vary—

(a) any of the sums for the time being specified in subsection (1) above, and

(b) the sum specified in subsection (2ZC) above."

(5) In subsection (2A), for "amount specified in subsection (1)(b) above shall be increased to the prescribed sum" substitute " amounts specified in subsection (1)(a)(i) and (b) above shall be increased to the prescribed sum in relation to days falling after the prescribed period ".

(6) In subsection (2B), for "amount specified in subsection (1)(b)" substitute " amounts specified in subsection (1)(a)(i) and (b) ".

(7) In subsection (2C)(b), after "section" insert " 306A or ".

(8) In subsection (2D), after "under section" insert " 306A or ".

(9) In subsection (2E), after "under section" insert " 306A or ".

(10) In subsection (2F)—

(a) in the opening words, for "subsection (2C)" substitute " this section ", and

(b) in paragraph (c), after "subsection" insert " (2ZE) or ".

Commencement

11 (1) The amendments made by this Schedule come into force on such day as the Treasury may by order made by statutory instrument appoint.

(2) An order may appoint different days for different provisions or for different purposes.

Subordinate Legislation Made

P1 Sch. 17 para. 11 power fully exercised: 1.1.2011 appointed by {S.I. 2010/3019}, art. 2

SCHEDULE 18 U.K.

Section 61

SALE OF LESSORS: ELECTION OUT OF CHARGE

Main changes

1 Chapter 3 of Part 9 of CTA 2010 (sale of lessors: leasing business carried on by company alone) is amended as follows.

2 (1) Section 382 (introduction to Chapter) is amended as follows.

(2) In subsection (1)—

(a) for "qualifying change of ownership in relation to" substitute " relevant change in the relationship between ", and

(b) insert at the end " and a principal company of the company. "

(3) In subsection (3), for " "qualifying change of ownership", see sections 392 to 398." substitute "relevant change in the relationship between a company and a principal company of the company", see sections 392 to 394. "

3 In section 383 (income and matching expense in different accounting periods), after subsection (1) insert—

"(1A) For the meaning of "qualifying change of ownership", see sections 394A to 398A"

4 For section 392 (and the italic heading before it) substitute—

" "Relevant change in relationship"

392 "Relevant change in relationship"

For the purposes of the sales of lessors Chapters there is a relevant change in the relationship between a company ("A") and a principal company of A on any day in any of the circumstances in section 393 or 394 (qualifying 75% subsidiaries and consortium relationships)."

5 After section 394 insert—

" "Qualifying change of ownership"

394A "Qualifying change of ownership"

For the purposes of the sales of lessors Chapters there is a qualifying change of ownership in relation to a company ("A") on any day if there is a relevant change in the relationship on that day between A and a principal company of A unless any of the following apply—

(a) section 395(2),

(b) section 396(2), or

(c) section 398A(2) or (5).”

6 After section 398 insert—

“Election out of qualifying change of ownership

398A Election out of qualifying change of ownership

(1) This section applies if—

(a) on any day (“the relevant day”) a company (“A”) carries on a business of leasing plant or machinery otherwise than in partnership,

(b) there is a relevant change in the relationship between A and a principal company of A (“P”) on the relevant day, and

(c) an election that this section is to apply is made by A.

(2) For the purposes of the sales of lessors Chapters, there is no qualifying change of ownership in relation to A on the relevant day as a result of the change in the relationship but—

(a) subsections (2)(b) and (4)(b) of section 383 nevertheless apply,

(b) section 398D (and section 398C so far as relating to it) has effect during the relevant period, and

(c) sections 398E to 398G (and section 398C so far as relating to section 398E) have effect on the relevant day and during the relevant period.

(3) “The relevant period” is the period—

(a) beginning with the day after the relevant day, and

(b) ending with the day on which there is next a relevant change in the relationship between A and a principal company of A falling within subsection (4) (or continuing indefinitely if there is not another such relevant change).

(4) A relevant change in the relationship between A and a principal company of A falls within this subsection if, as a result of it, the (unadjusted) basic amount (see section 399) is (or, but for a further election, would be) treated as a receipt of the business of leasing plant or machinery carried on by A.

(5) Where during the relevant period there is a relevant change in the relationship between A and a principal company of A but the relevant period is not brought to an end by it, for the purposes of the sales of lessors Chapters there is no qualifying change of ownership in relation to A as a result of the change in the relationship.

398B The election

(1) The election under section 398A must state the date of the relevant day.

(2) The election must be made—

(a) by notice to an officer of Revenue and Customs, and
(b) during the period of two years beginning with the relevant day.

(3) The election is irrevocable.

(4) All such assessments and adjustments of assessments are to be made as are necessary to give effect to the election.

398C Special treatment of A's trade or business that includes leasing

(1) Sections 398D and 398E make special provision about the trade or property business consisting of or including A's business of leasing plant or machinery.

(2) In those sections "the relevant activity" means—
(a) if A's business of leasing plant or machinery constitutes or forms part of a trade, that trade, and
(b) if it forms part of a property business, that property business.

398D Restrictions on use of losses etc

(1) No loss may be deducted under—
(a) Chapter 2 of Part 4,
(b) section 62, or
(c) section 189,

from so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the loss or charge is attributable to the carrying on of the relevant activity.

(2) Group relief is not to be given under Part 5 against so much of the total profits of A as are attributable to the carrying on of the relevant activity.

(3) No deficit may be set off under section 461 of CTA 2009 (non-trading deficit from loan relationship) against profits attributable to the carrying on of the relevant activity except to the extent that the deficit is attributable to the carrying on of the relevant activity.

(4) No loss may be set off under section 753 of CTA 2009 (non-trading loss on intangible fixed assets) against so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the loss or charge is attributable to the carrying on of the relevant activity.

(5) No deduction is to be allowed under section 1219 of CTA 2009 (expenses of management of investment business) from so much of the total profits of A as are attributable to the carrying on of the relevant activity except to the extent that the expenses concerned are attributable to the carrying on of the relevant activity.

(6) If A is a controlled foreign company within the meaning of Chapter 4 of Part 17 of ICTA in relation to which an apportionment falls to be made under section 747(3) of that Act in respect of the accounting period ending with the relevant day, no sum may be set off under paragraph 1 of Schedule 26 to ICTA by any person in respect of so much of the chargeable profits of A

as are apportioned to the person and are attributable to the carrying on of the relevant activity.

(7) If A would otherwise be a tonnage tax company under Schedule 22 to FA 2000 (tonnage tax) it is to be treated as not being such a company.

398E Restriction on artificial losses or reductions in profits

(1) This section applies if any expenditure incurred by A in carrying on the relevant activity has an unallowable purpose.

(2) In calculating the profits or losses of A for any accounting period for the purposes of corporation tax so much of the expenditure as, on a just and reasonable apportionment, is attributable to the unallowable purpose is to be left out of account.

(3) Expenditure has an unallowable purpose if the main purpose, or one of the main purposes, of A in incurring it is to obtain a relevant tax advantage ("the unallowable purpose").

(4) A "relevant tax advantage" is—

(a) a reduction in the profits which, for the purposes of corporation tax, are attributable to the carrying on of the relevant activity by A,

(b) the creation of a loss which, for those purposes, is so attributable, or

(c) an increase in losses which, for those purposes, are so attributable.

398F Limit on availability of capital allowances to A

(1) Expenditure incurred by A in providing plant or machinery is not qualifying expenditure for the purposes of Part 2 of CAA 2001 if the expenditure is incurred on the acquisition or creation of an independent asset.

(2) An asset is an "independent" asset if, in the normal course of business—

(a) it could be used individually (whether or not it could also be used in conjunction with another asset or other assets as a constituent part of a single asset consisting of more than one asset (a "combined asset")), or

(b) it could be used (at different times) as a constituent part of different combined assets.

398G Transfers into and out of A

(1) Section 948 does not apply where A is the predecessor or the successor.

(2) Where section 948 does not apply as a result of subsection (1), the plant or machinery belonging to the trade is to be treated for the purposes of the Corporation Tax Acts as sold by the predecessor to the successor on the day of cessation for an amount equal to its market value on that day.

(3) Where A is the predecessor, section 265(2)(b) of CAA 2001 (successions) applies—

(a) even if the relevant property has been sold to the successor, and

(b) as if the reference to market value were to market value as determined in accordance with section 437(9)."

Interpretation

7 In section 437 of CTA 2010 (interpretation of the sales of lessors Chapters), after subsection (8) insert—

"(8A) Property business" means a UK property business or an overseas property business."

8 In Schedule 4 to that Act (index of defined expressions), insert at the appropriate places—

"property business (in Chapters 3 to 6 of Part 9)	section 437(8A)"
"relevant change in relationship (in Chapters 3 to 6 of Part 9)	section 392"and in the entry relating to "qualifying change of ownership in relation to a company (in Chapters 3 to 6 of Part 9)" for "392 to 398" substitute " 394A to 398A ").

Commencement etc

9 The amendments made by this Schedule have effect where the relevant day is on or after 9 December 2009.

10 Amendments corresponding to those made by this Schedule, having effect where the relevant day is on or after that date, are to be treated as having been made in Schedule 10 to FA 2006.

11 Neither section 398F of CTA 2010 (inserted by paragraph 6) nor the corresponding provision treated as inserted by paragraph 10 apply in relation to expenditure incurred in pursuance of a written contract which is finalised by A before 9 December 2009; and for this purpose a contract is finalised on the earliest date on which—

(a) it is unconditional or (if conditional) the conditions are met, and
(b) no terms remain to be agreed.

12 Section 398A of CTA 2010 (as inserted by paragraph 6) has effect in relation to a relevant change in the relationship between A and a principal company of A in the case of which the relevant day is before 24 March 2010 as if—

(a) in subsection (3)(b), the words "falling within subsection (4)", and
(b) subsections (4) and (5),

were omitted.

13 Section 398D of CTA 2010 (as inserted by paragraph 6)—

(a) has effect with the omission of subsection (6) in relation to accounting periods beginning before 24 March 2010, and
(b) has effect with the omission of subsection (7) until that date.

SCHEDULE 19 U.K.

Section 62

ACCOUNTING STANDARDS: LOAN RELATIONSHIPS AND DERIVATIVE CONTRACTS

Loan relationships

1 In Chapter 18 of Part 5 of CTA 2009 (loan relationships: general and supplementary provision), before section 466 (and the heading before it) insert—

"Changes in accounting standards

Power to make regulations where accounting standards change

465A (1) The Treasury may by regulations make provision for cases where, in consequence of a change in accounting standards, there is a relevant accounting change.

(2) "Change in accounting standards" means the issue, revocation, amendment or recognition of, or withdrawal of recognition from, an accounting standard by an accounting body.

(3) "Relevant accounting change" means a change in the way in which a company is permitted or required, for accounting purposes, to recognise amounts which—

(a) are brought into account by the company as credits or debits for any period for the purposes of this Part, or

(b) would be so brought into account but for any provision made by or under this Part.

(4) Regulations under subsection (1) may amend this Part (apart from this section).

(5) Regulations under subsection (1) may—

(a) make different provision for different cases,

(b) make incidental, supplemental, consequential and transitional provision and savings, and

(c) make provision subject to an election or other specified circumstances.

(6) Regulations making consequential provision by virtue of subsection (5)(b) may, in particular, include provision amending a provision of the Corporation Tax Acts.

(7) Regulations under subsection (1) may apply to a pre-commencement period if they make provision in relation to a relevant accounting change which may or must be adopted, for accounting purposes, for a period of account, or part of a period of account, which coincides with that pre-commencement period.

(8) In this section—

"accounting body" means the International Accounting Standards Board or the Accounting Standards Board, or a successor body to either of those Boards;

"accounting standard" includes any statement of practice, guidance or other similar document;

"pre-commencement period", in relation to regulations, means an accounting period, or part of an accounting period, which begins before the regulations are made."

Derivative contracts

2 In Chapter 13 of Part 7 of CTA 2009 (derivative contracts: general and supplementary provision), after section 701 insert—

"Changes to accounting standards

701A Power to make regulations where accounting standards change

(1) The Treasury may by regulations make provision for cases where, in consequence of a change in accounting standards, there is a relevant accounting change.

(2) "Change in accounting standards" means the issue, revocation, amendment or recognition of, or withdrawal of recognition from, an accounting standard by an accounting body.

(3) "Relevant accounting change" means a change in the way in which a company is permitted or required, for accounting purposes, to recognise amounts which—

(a) are brought into account by the company as credits or debits for any period for the purposes of this Part, or

(b) would be so brought into account but for any provision made by or under this Part.

(4) Regulations under subsection (1) may amend this Part (apart from this section).

(5) Regulations under subsection (1) may—

(a) make different provision for different cases,

(b) make incidental, supplemental, consequential and transitional provision and savings, and

(c) make provision subject to an election or other specified circumstances.

(6) Regulations making consequential provision by virtue of subsection (5)(b) may, in particular, include provision amending a provision of the Corporation Tax Acts.

(7) Regulations under subsection (1) may apply to a pre-commencement period if they make provision in relation to a relevant accounting change which may or must be adopted, for accounting purposes, for a period of account (or part of a period of account) which coincides with that pre-commencement period.

(8) In this section—

"accounting body" means the International Accounting Standards Board or the Accounting Standards Board, or a successor body to either of those Boards;

"accounting standard" includes any statement of practice, guidance or other similar document;

"pre-commencement period", in relation to regulations, means an accounting period (or part of an accounting period) which begins before the regulations are made."

Affirmative resolution procedure

3 In section 1310(4) of CTA 2009 (orders and regulations subject to affirmative resolution of House of Commons), before paragraph (za) insert—

"(zza) section 465A or 701A (powers to make regulations where accounting standards change),".

SCHEDULE 20 U.K.

Section 63

CHAMPIONS LEAGUE FINAL

Exemption from income tax

1 (1) This paragraph applies if an employee or contractor of an overseas team which competes in the 2011 Champions League final ("the final") is neither UK resident nor ordinarily UK resident at the time of the final.

(2) That person is not liable to income tax in respect of any income arising to the person which is related to duties or services performed by the person in the United Kingdom in connection with the final.

(3) This paragraph is subject to paragraphs 2 and 3.

(4) For the meaning of some expressions used in this paragraph, see paragraphs 5 and 6.

Exclusion of certain income

2 Paragraph 1(2) does not apply to income which arises as a result of—

(a) a contract entered into after the final, or

(b) any amendment, after the final, of a contract entered into before the end of the final.

Tax avoidance

3 (1) This paragraph applies if conditions A and B are met.

(2) Condition A is that arrangements have been made which, but for this paragraph, would result in a person obtaining exemption under paragraph 1 in respect of particular income.

(3) Condition B is that those arrangements have, or form part of arrangements which have, as their main purpose, or one of their main purposes, the obtaining of that exemption.

(4) Paragraph 1(2) does not apply to that income.

Disapplication of section 966 of ITA 2007

4 Section 966 of ITA 2007 (duty to deduct and account for sums representing income tax) does not apply to any payment or transfer which gives rise to income within paragraph 1(2).

Interpretation

5 References in this Schedule to income are to be read as references to—

(a) income that would be employment income but for the provisions of paragraph 1, and

(b) profits of a trade, profession or vocation (including profits treated as arising as a result of provision made by or under sections 13 and 14 of ITTOIA 2005).

6 In this Schedule—

"the 2011 Champions League final" means the final of the UEFA Champions League 2010/2011 competition held in England in 2011;

"contractor", in relation to an overseas team, means an individual who is not an employee of the team but who performs services for the team—

(a) under the terms of a contract with the team, or

(b) under the terms of a contract, or that individual's employment, with a company which is a member of the same group of companies as the team (within the meaning given by section 152 of CTA 2010);

"employee" and "employment" are to be read in accordance with section 4 of ITEPA 2003;

"overseas team" means a football club which is not a member of the Football Association, the Scottish Football Association, the Football Association of Wales or the Irish Football Association.