



# Corporation Tax Act 2010

## 2010 CHAPTER 4

### PART 24

#### CORPORATION TAX ACTS DEFINITIONS ETC

#### CHAPTER 1

#### DEFINITIONS

#### **1118 Introduction to Chapter**

- (1) This Chapter contains definitions for the purposes of the Corporation Tax Acts.
- (2) Section 1119 lists the definitions and either sets them out in full or indicates where they are set out in full.
- (3) The definitions set out in sections 1120, 1129, 1138 and 1139 apply only for the purposes of the provisions of the Corporation Tax Acts that apply them.
- (4) The definitions set out in sections 1122 and 1124 apply only for the purposes of provisions of the Corporation Tax Acts—
  - (a) which apply them, or
  - (b) to which they are applied (see section 1316 of CTA 2009 and section 1176 of this Act).
- (5) The other definitions apply for the purposes of the Corporation Tax Acts unless otherwise indicated (whether expressly or by implication).

#### **1119 The definitions**

The definitions referred to in section 1118(2) are—

“accounting date” means the date to which a company makes up its accounts,  
“accounting period” is to be read in accordance with Chapter 2 of Part 2 of CTA 2009,

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- “Act” includes Northern Ireland legislation,
- “allowable loss”, in relation to corporation tax in respect of chargeable gains, has the same meaning as in TCGA 1992 (see section 288(1) of that Act),
- “authorised unit trust” has the same meaning as in Chapter 2 of Part 13 (see sections 616 and 619),
- “bank” is to be read in accordance with section 1120,
- “basic rate” means the rate of income tax determined in pursuance of section 6(2) of ITA 2007,
- “body of persons” means any body politic, corporate or collegiate and any company, fraternity, fellowship and society of persons whether corporate or not corporate,
- “branch or agency” means any factorship, agency, receivership, branch or management,
- “building society” means a building society within the meaning of the Building Societies Act 1986,
- “capital allowance” means any allowance under CAA 2001,
- “the Capital Allowances Act” means CAA 2001,
- “the charge to corporation tax on income” has the same meaning as in CTA 2009 (see section 2(3) of that Act),
- “chargeable gain” has the same meaning as in TCGA 1992,
- “chargeable period” means an accounting period of a company or a tax year,
- “chargeable profits”, in relation to a non-UK resident company carrying on a trade in the United Kingdom through a permanent establishment, has the meaning given by section 19 of CTA 2009,
- “charity” means a body of persons or trust established for charitable purposes only,
- “close company” is to be read in accordance with Chapter 2 of Part 10 (see in particular section 439),
- “company” has the meaning given by section 1121,
- “connected”, in relation to two persons being connected with one another, is to be read in accordance with sections 1122 and 1123,
- “control”, in relation to the control of a body corporate or a partnership, is to be read in accordance with section 1124,
- “derivative contract” has the same meaning as in Part 7 of CTA 2009,
- “distribution” has the meaning given by Chapters 2 to 5 of Part 23,
- “farming” has the meaning given by section 1125,
- “the financial year 2010” means the financial year beginning with April 2010 (and any corresponding expression in which a year is similarly mentioned is to be read in the same way),
- “for accounting purposes” has the meaning given by section 1127(4),
- “forestry” is to be read in accordance with section 1125,
- “franked investment income” has the meaning given by section 1126,
- “generally accepted accounting practice” has the meaning given by section 1127(1) and (3),
- “grossing up” is to be read in accordance with section 1128,
- “group relief” has the meaning given by section 97(2),
- “hire-purchase agreement” is to be read in accordance with section 1129,

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“income” includes anything to which the charge to corporation tax on income applies,

“international accounting standards” has the meaning given by section 1127(5),

“investment trust” has the meaning given by section 1158,

“loan relationship” has the same meaning as in Part 5 of CTA 2009,

“local authority” has the meaning given by section 1130,

“local authority association” has the meaning given by section 1131,

“market gardening” has the meaning given by section 1125(5),

“non-UK resident” means not resident in the United Kingdom (and references to a non-UK resident are to a person not resident there),

“notice” means notice in writing,

“offshore installation” has the meaning given by sections 1132 and 1133,

“oil and gas exploration and appraisal” has the meaning given by section 1134,

“ordinary share capital”, in relation to a company, means all the company's issued share capital (however described), other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the company's profits,

“overseas property business” has the meaning given by Chapter 2 of Part 4 of CTA 2009,

“period of account”—

(a) in relation to a person, means any period for which the person draws up accounts, and

(b) in relation to a trade or other business, means any period for which the accounts of the business are drawn up,

“permanent establishment”, in relation to a company, is to be read in accordance with Chapter 2 of this Part,

“personal representatives”, in relation to a person who has died, means—

(a) in the United Kingdom, persons responsible for administering the estate of the deceased, and

(b) in a territory outside the United Kingdom, those persons having functions under its law equivalent to those of administering the estate of the deceased,

“property investment LLP” has the meaning given by section 1135,

“qualifying charitable donation” has the same meaning as in Part 6 (see section 190),

“qualifying distribution” has the meaning given by section 1136,

“recognised stock exchange” has the meaning given by section 1137,

“registered industrial and provident society” means—

(a) a society registered or treated as registered under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)), or

(b) an SCE formed in accordance with Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society,

“registered pension scheme” has the meaning given by section 150(2) of FA 2004,

“research and development” is to be read in accordance with section 1138,

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“retail prices index” means—

- (a) the general index of retail prices (for all items) published by the Statistics Board, or
- (b) if that index is not published for a relevant month, any substituted index or index figures published by that Board,

“scheme administrator”, in relation to a pension scheme, has the meaning given by section 270 of FA 2004 (but see also sections 271 to 274 of that Act),

“settled property” (together with references to property comprised in a settlement) is to be read in accordance with section 466 of ITA 2007 (as a result of the application of that section for the purposes of the Corporation Tax Acts by section 1169 below),

“settlor” is to be read in accordance with sections 467 to 473 of ITA 2007 (as a result of the application of those sections for the purposes of the Corporation Tax Acts by section 1169 below),

“51% subsidiary”, “75% subsidiary” and “90% subsidiary”, in relation to bodies corporate, is to be read in accordance with Chapter 3 of this Part,

“tax”, if neither income tax nor corporation tax is specified, means either of those taxes,

“tax advantage” has the meaning given by section 1139,

“tax credit” means a tax credit under section 1109,

“tax year” means a year for which income tax is charged (see section 4(2) of ITA 2007),

“the tax year 2010-11” means the tax year beginning on 6 April 2010 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way),

“total profits”, in relation to an accounting period of a company, is to be read in accordance with section 4(3) and (4),

“trade” includes any venture in the nature of trade,

“tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal,

“UK generally accepted accounting practice” has the meaning given by section 1127(2),

“UK property business” has the meaning given by Chapter 2 of Part 4 of CTA 2009,

“UK resident” means resident in the United Kingdom (and references to a UK resident are to a person resident there),

“unauthorised unit trust” has the meaning given by section 1140,

“unit holder” has the same meaning as in Chapter 2 of Part 13 (see sections 616 and 619),

“unit trust scheme” has the meaning given by section 237 of FISMA 2000,

“venture capital trust” and “VCT” have the same meaning as in Part 6 of ITA 2007,

“woodlands” has the meaning given by section 1125(4),

“year of assessment” means a tax year, and

“the year 2010-11” means the tax year 2010-11 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).

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## **1120 “Bank”**

- (1) This section has effect for the purposes of the provisions of the Corporation Tax Acts which apply this section.
- (2) “Bank” means—
  - (a) the Bank of England,
  - (b) a person who has permission under Part 4 of FISMA 2000 to accept deposits (but see subsection (3) for exclusions),
  - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 which has permission under paragraph 15 of that Schedule to accept deposits (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule),
  - (d) the European Investment Bank, and
  - (e) an international organisation designated as a bank for the purposes of this section by an order made by the Treasury.
- (3) The reference to a person who has permission under Part 4 of FISMA 2000 to accept deposits does not include—
  - (a) a building society,
  - (b) a society registered within the meaning of the Friendly Societies Act 1974 or incorporated under the Friendly Societies Act 1992,
  - (c) 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 (N.I. 12)), or
  - (d) an insurance company within the meaning of section 275 of FA 2004.
- (4) The Treasury may designate an international organisation for the purposes of this section only if the United Kingdom is a member of the organisation.
- (5) An order under subsection (2)(e) may include provision for a designation to have effect only in relation to the application of this section by a provision specified in the order.

## **1121 “Company”**

- (1) In the Corporation Tax Acts “company” means any body corporate or unincorporated association, but does not include a partnership, a local authority or a local authority association.
- (2) Subsection (1) needs to be read with section 617 (under which the trustees of an authorised unit trust are treated for certain purposes as a UK resident company).

## **1122 “Connected” persons**

- (1) This section has effect for the purposes of the provisions of the Corporation Tax Acts which apply this section (or to which this section is applied).
- (2) A company is connected with another company if—
  - (a) the same person has control of both companies,
  - (b) a person (“A”) has control of one company and persons connected with A have control of the other company,
  - (c) A has control of one company and A together with persons connected with A have control of the other company, or

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- (d) a group of two or more persons has control of both companies and the groups either consist of the same persons or could be so regarded if (in one or more cases) a member of either group were replaced by a person with whom the member is connected.
- (3) A company is connected with another person (“A”) if—
  - (a) A has control of the company, or
  - (b) A together with persons connected with A have control of the company.
- (4) In relation to a company, any two or more persons acting together to secure or exercise control of the company are connected with—
  - (a) one another, and
  - (b) any person acting on the directions of any of them to secure or exercise control of the company.
- (5) An individual (“A”) is connected with another individual (“B”) if—
  - (a) A is B's spouse or civil partner,
  - (b) A is a relative of B,
  - (c) A is the spouse or civil partner of a relative of B,
  - (d) A is a relative of B's spouse or civil partner, or
  - (e) A is the spouse or civil partner of a relative of B's spouse or civil partner.
- (6) A person, in the capacity as trustee of a settlement, is connected with—
  - (a) any individual who is a settlor in relation to the settlement,
  - (b) any person connected with such an individual,
  - (c) any close company whose participators include the trustees of the settlement,
  - (d) any non-UK resident company which, if it were UK resident, would be a close company whose participators include the trustees of the settlement,
  - (e) any body corporate controlled (within the meaning of section 1124) by a company within paragraph (c) or (d),
  - (f) if the settlement is the principal settlement in relation to one or more sub-fund settlements, a person in the capacity as trustee of such a sub-fund settlement, and
  - (g) if the settlement is a sub-fund settlement in relation to a principal settlement, a person in the capacity as trustee of any other sub-fund settlements in relation to the principal settlement.
- (7) A person who is a partner in a partnership is connected with—
  - (a) any partner in the partnership,
  - (b) the spouse or civil partner of any individual who is a partner in the partnership, and
  - (c) a relative of any individual who is a partner in the partnership.
- (8) But subsection (7) does not apply in relation to acquisitions or disposals of assets of the partnership pursuant to genuine commercial arrangements.

### 1123 “Connected” persons: supplementary

- (1) In section 1122 and this section—
  - “company” includes any body corporate or unincorporated association, but does not include a partnership (and see also subsection (2)),

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“control” is to be read in accordance with sections 450 and 451 (except where otherwise indicated),

“principal settlement” has the meaning given by paragraph 1 of Schedule 4ZA to TCGA 1992,

“relative” means brother, sister, ancestor or lineal descendant,

“settlement” has the same meaning as in Chapter 5 of Part 5 of ITTOIA 2005 (see section 620 of that Act), and

“sub-fund settlement” has the meaning given by paragraph 1 of Schedule 4ZA to TCGA 1992.

- (2) For the purposes of section 1122—
  - (a) a unit trust scheme is treated as if it were a company, and
  - (b) the rights of the unit holders are treated as if they were shares in the company.
- (3) For the purposes of section 1122 “trustee”, in the case of a settlement in relation to which there would be no trustees apart from this subsection, means any person—
  - (a) in whom the property comprised in the settlement is for the time being vested, or
  - (b) in whom the management of that property is for the time being vested.Section 466(4) of ITA 2007 (which applies for the purposes of the Corporation Tax Acts as a result of section 1169 below) does not apply for the purposes of this subsection.
- (4) If any provision of section 1122 provides that a person (“A”) is connected with another person (“B”), it also follows that B is connected with A.

## **1124 “Control”**

- (1) This section has effect for the purposes of the provisions of the Corporation Tax Acts which apply this section (or to which this section is applied).
- (2) In relation to a body corporate (“company A”), “control” means the power of a person (“P”) to secure—
  - (a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or
  - (b) as a result of any powers conferred by the articles of association or other document regulating that or any other body corporate,that the affairs of company A are conducted in accordance with P's wishes.
- (3) In relation to a partnership, “control” means the right to a share of more than half the assets, or of more than half the income, of the partnership.

## **1125 “Farming” and related expressions**

- (1) In the Corporation Tax Acts “farming” means the occupation of land wholly or mainly for the purposes of husbandry, but does not include market gardening (see subsection (5)).
- (2) In subsection (1) “husbandry” includes—
  - (a) hop growing, and
  - (b) the breeding and rearing of horses and the grazing of horses in connection with those activities.

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- (3) For the purposes of the Corporation Tax Acts the cultivation of short rotation coppice is regarded as husbandry and not as forestry.
- (4) In the Corporation Tax Acts “woodlands” does not include land on which short rotation coppice is cultivated.
- (5) In the Corporation Tax Acts “market gardening” means the occupation of land as a garden or nursery for the purpose of growing produce for sale.
- (6) For the purposes of this section “short rotation coppice” means a perennial crop of tree species planted at high density, the stems of which are harvested above ground level at intervals of less than 10 years.
- (7) In the application of this section for the purposes of paragraph 26 of Schedule 15 to FA 2000—
  - (a) both references to the occupation of land, and the reference to land on which short rotation coppice is cultivated, refer to land in the United Kingdom, and
  - (b) the reference to the cultivation of such coppice refers to its cultivation in the United Kingdom.

#### **1126 “Franked investment income”**

- (1) In the Corporation Tax Acts “franked investment income” means income of a UK resident company which consists of a distribution in respect of which the company is entitled to a tax credit.
- (2) Accordingly, a reference in the Corporation Tax Acts to the amount of any franked investment income is to the total of the amount or value of the distribution and the amount of the tax credit.
- (3) In the Corporation Tax Acts a reference to franked investment income received by a company includes a reference to franked investment income received by another person on behalf of, or in trust for, the company.
- (4) But a reference in the Corporation Tax Acts to franked investment income received by a company does not include a reference to franked investment income received by the company on behalf of, or in trust for, another person.

#### **1127 “Generally accepted accounting practice” and related expressions**

- (1) In the Corporation Tax Acts “generally accepted accounting practice” means UK generally accepted accounting practice.

This is subject to subsection (3).

- (2) In the Corporation Tax Acts “UK generally accepted accounting practice”—
  - (a) means generally accepted accounting practice in relation to accounts of UK companies (other than IAS accounts) that are intended to give a true and fair view, and
  - (b) has the same meaning in relation to—
    - (i) individuals,
    - (ii) entities other than companies, and
    - (iii) companies that are not UK companies,



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as it has in relation to UK companies.

- (3) In relation to the affairs of a company or other entity that prepares IAS accounts, in the Corporation Tax Acts “generally accepted accounting practice” means generally accepted accounting practice in relation to IAS accounts.
- (4) In the Corporation Tax Acts “for accounting purposes” means for the purposes of accounts drawn up in accordance with generally accepted accounting practice.
- (5) In the Corporation Tax Acts “international accounting standards” has the same meaning as in Regulation (EC) No 1606/2002 of the European Parliament and the Council of 19 July 2002 on the application of international accounting standards.
- (6) If the European Commission has in accordance with that Regulation adopted an international accounting standard with modifications, then as regards matters covered by that standard—
  - (a) generally accepted accounting practice with respect to IAS accounts is to be regarded as permitting the use of the standard either with or without modifications, and
  - (b) accounts prepared on either basis are to be regarded for the purposes of the Corporation Tax Acts as prepared in accordance with international accounting standards.
- (7) In this section—

“IAS accounts” means accounts prepared in accordance with international accounting standards, and

“UK companies” means companies incorporated or formed under the law of a part of the United Kingdom.

## 1128 “Grossing up”

- (1) In the Corporation Tax Acts references to grossing up by reference to a rate of tax are to calculating the amount (“the grossed up amount”) which after deduction of income tax at that rate would equal the amount to be grossed up (“the net amount”).
- (2) The grossed up amount is the sum of the net amount and the tax deducted.
- (3) The grossed up amount may also be expressed as—

$$GA = NA + \left( NA \times \frac{R}{100 - R} \right)$$

where—

GA is the grossed up amount,

NA is the net amount, and

R is the percentage rate of tax by reference to which the net amount is to be grossed up.

## 1129 “Hire-purchase agreement”

- (1) This section has effect for the purposes of the provisions of the Corporation Tax Acts which apply this section.
- (2) A hire-purchase agreement is an agreement in whose case conditions A, B and C are met.

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- (3) Condition A is that under the agreement goods are bailed (or in Scotland hired) in return for periodical payments by the person to whom they are bailed (or hired).
- (4) Condition B is that under the agreement the property in the goods will pass to the person to whom they are bailed (or hired) if the terms of the agreement are complied with and one or more of the following events occurs—
  - (a) the exercise of an option to purchase by that person,
  - (b) the doing of another specified act by any party to the agreement,
  - (c) the happening of another specified event.
- (5) Condition C is that the agreement is not a conditional sale agreement.
- (6) In subsection (5) “conditional sale agreement” means an agreement for the sale of goods under which—
  - (a) the purchase price or part of it is payable by instalments, and
  - (b) the property in the goods is to remain in the seller (even though they are to be in the possession of the buyer) until conditions specified in the agreement are met (whether as to the payment of instalments or otherwise).

### 1130 “Local authority”

- (1) In the Corporation Tax Acts “local authority”, in relation to England and Wales, means—
  - (a) a billing authority as defined in section 1(2) of the Local Government Finance Act 1992,
  - (b) a precepting authority as defined in section 69(1) of that Act,
  - (c) a body with power to issue a levy (by virtue of regulations under section 74 of the Local Government Finance Act 1988),
  - (d) a body with power to issue a special levy (by virtue of regulations under section 75 of that Act),
  - (e) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
  - (f) an authority with power to make or determine a rate, or
  - (g) a residuary body established by order under section 22(1) of the Local Government Act 1992.
- (2) In the Corporation Tax Acts “local authority”, in relation to Scotland, means—
  - (a) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994,
  - (b) a joint board or committee within the meaning of the Local Government (Scotland) Act 1973, or
  - (c) an authority with power to requisition any sum from a council such as is mentioned in paragraph (a).
- (3) In the Corporation Tax Acts “local authority”, in relation to Northern Ireland, means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)).
- (4) In this section “rate” means a rate—
  - (a) whose proceeds are applicable for public local purposes, and

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- (b) which is leviable by reference to the value of land or property.

### **1131 “Local authority association”**

- (1) In the Corporation Tax Acts “local authority association” means any incorporated or unincorporated association which meets conditions A and B.
- (2) Condition A is that all of its members are local authorities, groups of local authorities or local authority associations.
- (3) Condition B is that its purpose, or primary purpose, is to protect and further the general interests of local authorities or any description of local authorities.
- (4) For the purposes of condition A, if a member (“M”) of a local authority association is a representative of, or is appointed by, a local authority, group of local authorities or a local authority association, the authority, group or association concerned (rather than M) is to be treated as a constituent member of the local authority association.

### **1132 “Offshore installation”**

- (1) In the Corporation Tax Acts “offshore installation” means a structure which is, is to be, or has been, put to a relevant use while in water (see subsections (3) and (4)).
- (2) But a structure is not an offshore installation if—
  - (a) it has permanently ceased to be put to a relevant use,
  - (b) it is not, and is not to be, put to any other relevant use, and
  - (c) since permanently ceasing to be put to a relevant use, it has been put to a use which is not relevant.
- (3) A use is a relevant use if it is—
  - (a) for the purposes of exploiting mineral resources by means of a well,
  - (b) for the purposes of exploration with a view to exploiting mineral resources by means of a well,
  - (c) for the storage of gas in or under the shore or the bed of any waters,
  - (d) for the recovery of gas so stored,
  - (e) for the conveyance of things by means of a pipe, or
  - (f) mainly for the provision of accommodation for individuals who work on or from a structure which is, is to be, or has been, put to any of the above uses while in water.
- (4) For the purposes of this section references to a structure being put to a use while in water are to the structure being put to a use while—
  - (a) standing in any waters,
  - (b) stationed (by whatever means) in any waters, or
  - (c) standing on the foreshore or other land intermittently covered with water.
- (5) In this section “structure” includes a ship or other vessel.

### **1133 Regulations about the meaning of “offshore installation”**

- (1) The Treasury may by regulations make provision as to the meaning of “offshore installation” in the Corporation Tax Acts.

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- (2) The regulations may—
- (a) add to, amend or repeal any provision of section 1132,
  - (b) make different provision for different purposes, and
  - (c) contain incidental, supplemental, consequential and transitional provision and savings.

#### **1134 “Oil and gas exploration and appraisal”**

- (1) In the Corporation Tax Acts “oil and gas exploration and appraisal” means activities carried out for the purpose of—
- (a) searching for petroleum anywhere in an area,
  - (b) ascertaining a petroleum-bearing area's extent or characteristics, or
  - (c) ascertaining its reserves of petroleum,
- so that it may be determined whether the petroleum is suitable for commercial exploitation.
- (2) In this section “petroleum” has the meaning given by section 1 of the Petroleum Act 1998.

#### **1135 “Property investment LLP”**

- (1) In the Corporation Tax Acts “property investment LLP” means a limited liability partnership—
- (a) whose business consists wholly or mainly in the making of investments in land, and
  - (b) the principal part of whose income is derived from investments in land.
- (2) Whether a limited liability partnership is a property investment LLP is determined for each period of account of the partnership.

#### **1136 “Qualifying distribution”**

- (1) In the Corporation Tax Acts “qualifying distribution” means any distribution, except—
- (a) one which is a distribution for corporation tax purposes only because it falls within paragraph C or D in section 1000(1) (redeemable share capital or security issued in respect of shares in, or securities of, the company), or
  - (b) a distribution which is derived from a distribution that falls within paragraph (a).
- (2) A distribution made by a company (“A”) is derived from a distribution that falls within subsection (1)(a) if it consists of share capital or a security which A has received (directly or indirectly) from another company (“B”) which issued the share capital or security by way of a distribution that falls within subsection (1)(a).

#### **1137 “Recognised stock exchange”**

- (1) In the Corporation Tax Acts “recognised stock exchange” means—
- (a) any market of a recognised investment exchange which is for the time being designated as a recognised stock exchange for the purposes of section 1005 of

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- ITA 2007 by an order made by the Commissioners for Her Majesty's Revenue and Customs, and
- (b) any market outside the United Kingdom which is for the time being so designated.
- (2) References in the Corporation Tax Acts to securities which are listed on a recognised stock exchange are to securities—
- (a) which are admitted to trading on that exchange, and
- (b) which are included in the official UK list or are officially listed in a qualifying country outside the United Kingdom in accordance with provisions corresponding to those generally applicable in EEA states.
- (3) For this purpose “qualifying country outside the United Kingdom” means any country outside the United Kingdom in which there is a recognised stock exchange.
- (4) References in the Corporation Tax Acts to securities which are included in the official UK list are to securities which are included in the official list (within the meaning of Part 6 of FISMA 2000) in accordance with the provisions of that Part.
- (5) In this section—
- “recognised investment exchange” has the same meaning as in FISMA 2000 (see section 285 of that Act), and
- “securities” includes shares and stock.

### **1138 “Research and development”**

- (1) This section has effect for the purposes of the provisions of the Corporation Tax Acts which apply this section.
- (2) “Research and development” means activities that fall to be treated as research and development in accordance with generally accepted accounting practice.
- This is subject to subsections (3) and (4).
- (3) Activities that are “research and development” for the purposes of section 1006 of ITA 2007 as a result of regulations under that section are “research and development” for the purposes of this section.
- (4) Activities that are not “research and development” for the purposes of section 1006 of ITA 2007 as a result of regulations under that section are not “research and development” for the purposes of this section.
- (5) Unless otherwise expressly provided, “research and development” does not include oil and gas exploration and appraisal.

### **1139 “Tax advantage”**

- (1) This section has effect for the purposes of the provisions of the Corporation Tax Acts which apply this section.
- (2) “Tax advantage” means—
- (a) a relief from tax or increased relief from tax,
- (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, or

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- (d) the avoidance of a possible assessment to tax.
- (3) For the purposes of subsection (2)(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 tax on them, or
  - (b) by a deduction in calculating profits or gains.
- (4) In this section “relief from tax” includes—
  - (a) a tax credit under section 1109 for the purposes of corporation tax, and
  - (b) a tax credit under section 397(1) or 397A(1) of ITTOIA 2005 for the purposes of income tax.

#### **1140 “Unauthorised unit trust”**

- (1) In the Corporation Tax Acts “unauthorised unit trust” means a unit trust scheme which is neither an authorised unit trust nor an umbrella scheme.
- (2) But if a unit trust scheme is not, under regulations made under section 1007(2) of ITA 2007, to be a unit trust scheme for the purposes of the definition of “unauthorised unit trust” in section 989 of that Act, it is not to be a unit trust scheme for the purposes of subsection (1).
- (3) In subsection (1) “umbrella scheme” has the same meaning as in section 619.

## **CHAPTER 2**

### PERMANENT ESTABLISHMENTS

#### *General*

#### **1141 Permanent establishments of companies**

- (1) For the purposes of the Corporation Tax Acts a company has a permanent establishment in a territory if (and only if)—
  - (a) it has a fixed place of business there through which the business of the company is wholly or partly carried on, or
  - (b) an agent acting on behalf of the company has and habitually exercises there authority to do business on behalf of the company.
- (2) For this purpose a “fixed place of business” includes (without prejudice to the generality of that expression)—
  - (a) a place of management,
  - (b) a branch,
  - (c) an office,
  - (d) a factory,
  - (e) a workshop,
  - (f) an installation or structure for the exploration of natural resources,
  - (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, and

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(h) a building site or construction or installation project.

(3) Subsection (1) is subject to sections 1142 to 1144.

*Circumstances where there is no permanent establishment*

**1142 Agent of independent status**

- (1) A company is not regarded as having a permanent establishment in a territory by reason of the fact that it carries on business there through an agent of independent status acting in the ordinary course of the agent's business.
- (2) Sections 1145 to 1151 apply for the purpose of supplementing subsection (1) in relation to transactions carried out on behalf of a non-UK resident company by a person in the United Kingdom acting as—
  - (a) a broker (section 1145),
  - (b) an investment manager (sections 1146 to 1150), or
  - (c) a members' or managing agent at Lloyd's (section 1151).

**1143 Preparatory or auxiliary activities**

- (1) If the condition in subsection (2) is met, a company is not regarded as having a permanent establishment in a territory by reason of the fact that—
  - (a) a fixed place of business is maintained there for the purpose of carrying on activities for the company, or
  - (b) an agent carries on activities there for and on behalf of the company.
- (2) The condition is that, in relation to the business of the company as a whole, the activities carried on are only of a preparatory or auxiliary character.
- (3) For this purpose “activities of a preparatory or auxiliary character” include (without prejudice to the generality of that expression)—
  - (a) the use of facilities for the purpose of storage, display or delivery of goods or merchandise belonging to the company,
  - (b) the maintenance of a stock of goods or merchandise belonging to the company for the purpose of storage, display or delivery,
  - (c) the maintenance of a stock of goods or merchandise belonging to the company for the purpose of processing by another person, and
  - (d) purchasing goods or merchandise, or collecting information, for the company.

**1144 Alternative finance arrangements**

- (1) Subsection (2) applies if alternative finance return is paid to a non-UK resident company.
- (2) The company is not regarded as having a permanent establishment in the United Kingdom merely by virtue of anything done for the purposes of the alternative finance arrangements—
  - (a) by the other party to the arrangements, or
  - (b) by any other person acting for the company in relation to the arrangements.

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- (3) In subsection (1) “alternative finance return” means alternative finance return within the application of—
  - (a) section 564I, 564K or 564L(2) or (3) of ITA 2007, or
  - (b) section 511, 512 or 513(2) or (3) of CTA 2009.
- (4) In subsection (2) the reference to “the alternative finance arrangements” is a reference to the alternative finance arrangements under which the alternative finance return mentioned in subsection (1) is paid.

### *Brokers*

#### **1145 The independent broker conditions**

- (1) This section applies if a transaction is carried out on behalf of a non-UK resident company in the course of the company's trade by a person in the United Kingdom acting as a broker.
- (2) In relation to the transaction, the broker is regarded for the purposes of section 1142(1) as an agent of independent status acting in the ordinary course of the broker's business if (and only if) each of conditions A to D is met.
- (3) Condition A is that at the time of the transaction the broker is carrying on the business of a broker.
- (4) Condition B is that the transaction is carried out in the ordinary course of that business.
- (5) Condition C is that the remuneration which the broker receives in respect of the transaction for the provision of the services of a broker to the non-UK resident company is not less than is customary for that class of business.
- (6) Condition D is that the broker does not fall (apart from this subsection) to be treated as a permanent establishment of the non-UK resident company in relation to any other transaction of any kind carried out in the same accounting period of the non-UK resident company as the transaction in question.

### *Investment managers*

#### **1146 The independent investment manager conditions**

- (1) This section applies if an investment transaction is carried out on behalf of a non-UK resident company in the course of the company's trade by a person in the United Kingdom acting as an investment manager.
- (2) In relation to the investment transaction, the investment manager is regarded for the purposes of section 1142(1) as an agent of independent status acting in the ordinary course of the investment manager's business if (and only if) each of conditions A to E is met (“the independent investment manager conditions”).
- (3) Condition A is that at the time of the transaction the investment manager is carrying on a business of providing investment management services.
- (4) Condition B is that the transaction is carried out in the ordinary course of that business.



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- (5) Condition C is that, when the investment manager acts on behalf of the non-UK resident company in relation to the transaction, the relationship between them, having regard to its legal, financial and commercial characteristics, is a relationship between persons carrying on independent businesses dealing with each other at arm's length.
- (6) Condition D is that the requirements of the 20% rule are met (see section 1147).
- (7) Condition E is that the remuneration which the investment manager receives in respect of the transaction for the provision of investment management services to the non-UK resident company is not less than is customary for that class of business.

#### **1147 Investment managers: the 20% rule**

- (1) The requirements of the 20% rule are met if conditions A and B are met.
- (2) Condition A is that, in relation to a qualifying period, it has been or is the intention of the investment manager and the persons connected with the investment manager that at least 80% of the non-UK resident company's relevant disregarded income should consist of amounts to which none of them has a beneficial entitlement.
- (3) Condition B is that, so far as there is a failure to fulfil that intention, that failure—
  - (a) is attributable (directly or indirectly) to matters outside the control of the investment manager and persons connected with the investment manager, and
  - (b) does not result from a failure of any of them to take such steps as may be reasonable for mitigating the effect of those matters in relation to the fulfilment of that intention.

#### **1148 Section 1147: interpretation**

- (1) This section applies for the purposes of section 1147.
- (2) A “qualifying period” means—
  - (a) the accounting period of the non-UK resident company in which the transaction in question is carried out, or
  - (b) a period of not more than 5 years comprising two or more complete accounting periods including that one.
- (3) The “relevant disregarded income” of the non-UK resident company for a qualifying period is the total of the non-UK resident company's income for the accounting periods comprised in the qualifying period which derives from transactions—
  - (a) carried out by the investment manager on the non-UK resident company's behalf, and
  - (b) in relation to which the investment manager does not (apart from the requirements of the 20% rule) fall to be treated as a permanent establishment of the company.
- (4) A person has a “beneficial entitlement” to relevant disregarded income if the person has or may acquire a beneficial entitlement that is, or would be, attributable to the relevant disregarded income as a result of having an interest or other rights mentioned in subsection (5).
- (5) The interests and rights referred to in subsection (4) are—

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- (a) an interest (whether or not an interest giving a right to an immediate payment of a share in the profits or gains) in property in which the whole or any part of the relevant disregarded income is represented, or
- (b) an interest in, or other rights in relation to, the non-UK resident company.

#### **1149 Application of 20% rule to collective investment schemes**

- (1) This section applies if amounts arise or accrue to the non-UK resident company as a participant in a collective investment scheme.
- (2) It applies for the purposes of determining whether the requirements of the 20% rule are met in relation to a transaction carried out for the purposes of the scheme (so far as the transaction is one in respect of which amounts so arise or accrue).
- (3) In applying this section make the following assumptions—
  - (a) that all the transactions carried out for the purposes of the scheme are carried out on behalf of a company (“the assumed company”) which is—
    - (i) constituted for the purposes of the scheme, and
    - (ii) non-UK resident, and
  - (b) that the participants do not have any rights in respect of the amounts arising or accruing in respect of those transactions, other than the rights which, if they held shares in the assumed company, would be their rights as shareholders.
- (4) If the scheme is such that the assumed company would not be regarded for tax purposes as carrying on a trade in the United Kingdom in relation to the accounting period in which the transaction was carried out, the requirements of the 20% rule are to be treated as met in relation to a transaction carried out for the purposes of the scheme.
- (5) If the scheme is such that the assumed company would be so regarded for tax purposes, sections 1147 and 1148 have effect in relation to a transaction carried out for the purposes of the scheme with the modifications in subsection (6).
- (6) The modifications are—
  - (a) for references to the non-UK resident company substitute references to the assumed company, and
  - (b) for references to the non-UK resident company's relevant disregarded income for a qualifying period substitute references to the sum of the amounts that would, for accounting periods comprised in the qualifying period, be chargeable to tax on the assumed company as profits deriving from the transactions—
    - (i) carried out by the investment manager, and
    - (ii) assumed to be carried out on behalf of the company.
- (7) In this section—
  - “collective investment scheme” has the meaning given by section 235 of FISMA 2000, and
  - “participant”, in relation to a collective investment scheme, is to be read in accordance with that section.

#### **1150 Meaning of “investment manager” and “investment transaction”**

- (1) In this Chapter—

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“investment manager” means a person who provides investment management services, and

“investment transaction” means any transaction of a description specified for the purposes of this subsection in regulations made by the Commissioners for Her Majesty's Revenue and Customs.

- (2) Provision made in regulations under subsection (1) may, in particular, have effect in relation to accounting periods current on the day on which the regulations are made.

### *Lloyd's agents*

#### **1151 Lloyd's agents**

- (1) This section applies if a transaction is carried out on behalf of a non-UK resident company in the course of the company's trade by a person in the United Kingdom acting as a members' agent or managing agent at Lloyd's.
- (2) In relation to the transaction, the person is regarded for the purposes of section 1142(1) as an agent of independent status acting in the ordinary course of the person's business if conditions A, B and C are met.
- (3) Condition A is that the non-UK resident company is a member of Lloyd's.
- (4) Condition B is that the transaction is carried out in the course of the company's underwriting business.
- (5) Condition C is that the person acting on behalf of the company in relation to the transaction acts as members' agent or as managing agent of the syndicate in question.
- (6) For the purposes of this section—
- (a) a non-UK resident company is a member of Lloyd's if it is a corporate member within the meaning of Chapter 5 of Part 4 of FA 1994, and
  - (b) “members' agent” and “managing agent” are to be read in accordance with section 230 of that Act.

### *Supplementary*

#### **1152 Investment managers: disregard of certain chargeable profits**

- (1) This section applies if—
- (a) an investment manager carries out one or more investment transactions on behalf of a non-UK resident company (whether or not the investment manager also carries out other transactions of any kind on behalf of the company), and
  - (b) the investment manager falls to be treated as a permanent establishment of the non-UK resident company (whether because the independent investment manager conditions are not met in relation to such investment transactions, or otherwise).
- (2) In determining under Chapter 4 of Part 2 of CTA 2009 the amount of profits attributable to the permanent establishment represented by the investment manager acting as an agent on behalf of the non-UK resident company, chargeable profits deriving from an investment transaction carried out by the investment manager on

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behalf of the non-UK resident company are to be disregarded in either of the following two cases—

*Case 1*

The independent investment manager conditions are met in relation to the investment transaction.

*Case 2*

The independent investment manager conditions, other than Condition D in section 1146(6) (the 20% rule), are met in relation to the investment transaction.

- (3) But if Case 2 applies in relation to the investment transaction, chargeable profits deriving from the transaction are to be disregarded only to the extent that they do not represent relevant disregarded income of the non-UK resident company to which the investment manager or a person connected with the investment manager has or has had any beneficial entitlement.
- (4) In subsection (3) “relevant disregarded income” and “beneficial entitlement” have the meanings given in section 1148.

### 1153 Miscellaneous

- (1) For the purposes of this Chapter a person is regarded as carrying out a transaction on behalf of another if the person—
- (a) undertakes the transaction, whether on behalf of or to the account of the other, or
  - (b) gives instructions for it to be so carried out by another.
- (2) In the case of a person who acts as a broker or investment manager as part only of a business, this Chapter has effect as if that part were a separate business.

## CHAPTER 3

### SUBSIDIARIES

### 1154 Meaning of “51% subsidiary”, “75% subsidiary” and “90% subsidiary”

- (1) Subsections (2) to (4) define, for the purposes of the Corporation Tax Acts, the circumstances in which a body corporate (“B”) is a 51% subsidiary, a 75% subsidiary or a 90% subsidiary of another body corporate (“A”).
- (2) B is a 51% subsidiary of A if more than 50% of B's ordinary share capital is owned directly or indirectly by A.
- (3) B is a 75% subsidiary of A if at least 75% of B's ordinary share capital is owned directly or indirectly by A.
- (4) B is a 90% subsidiary of A if at least 90% of B's ordinary share capital is owned directly by A.
- (5) For the purposes of subsections (2) and (3) ordinary share capital is owned “directly or indirectly” by a body corporate if it is owned by it—
- (a) directly,

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- (b) indirectly, or
  - (c) partly directly and partly indirectly.
- (6) In this Chapter references to ownership are to be read as references to beneficial ownership.

**Modifications etc. (not altering text)**

- C1** S. 1154 modified by Income and Corporation Taxes Act 1988 (c. 1), Sch. 25 para. 12(3) (as amended) (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), **Sch. 1 para. 147(3)** (with Sch. 2)

**1155 Indirect ownership of ordinary share capital**

- (1) For the purposes of this Chapter ordinary share capital is owned indirectly by a body corporate if it is owned through another body corporate or other bodies corporate.
- (2) References in this Chapter to ownership through a body corporate are to be read in accordance with subsections (3) and (4).
- (3) Suppose that 3 or more bodies corporate are ordered in a series such that each body in the series (other than the last) owns ordinary share capital of the body immediately below it in the series.
- (4) If B is a body that is below, but not immediately below, A in the series, A is said to own ordinary share capital of B through each body corporate that is between A and B in the series.
- (5) Sections 1156 and 1157 contain rules for calculating, for the purposes of this Chapter, the amount of a body corporate's ordinary share capital that another body corporate owns—
  - (a) indirectly, or
  - (b) partly directly and partly indirectly.

**1156 Calculation of amounts owned indirectly: main rules**

- (1) If a body corporate (“A”) directly owns the whole of the ordinary share capital of another body corporate (“B”), A is treated as indirectly owning the whole of any ordinary share capital that is owned directly or indirectly by B.
- (2) If a body corporate (“A”) directly owns a fraction of the ordinary share capital of another body corporate (“B”) and B directly or indirectly owns ordinary share capital of a third body corporate (“C”), A is treated as indirectly owning the amount of C's ordinary share capital given by the formula—

$$F \times M$$

where—

F is the fraction of B's ordinary share capital that is owned by A, and  
M is the amount of the ordinary share capital of C that is owned directly or indirectly by B.

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- (3) For the purposes of subsections (1) and (2), the amount of any ordinary share capital that is owned indirectly by B is calculated using subsection (1) or (2), or both, as appropriate.

### 1157 Adding fractions together

- (1) If A and C are bodies corporate and—
- (a) A owns, through one or more bodies corporate (“the intermediaries in the first series”), a fraction of C's ordinary share capital, and
  - (b) A also owns a further fraction of C's ordinary share capital (or further fractions of C's ordinary share capital),
- all those fractions are added together to find the amount of C's ordinary share capital that is owned by A.
- (2) The reference in subsection (1)(b) to a further fraction of C's share capital is to a fraction of C's share capital that A owns—
- (a) directly, or
  - (b) indirectly but through one or more bodies corporate which do not (together) constitute all of the intermediaries in the first series, or which include a body corporate that is not an intermediary in the first series.

## CHAPTER 4

### INVESTMENT TRUSTS

### 1158 Meaning of “investment trust”

In the Corporation Tax Acts “investment trust”, with respect to an accounting period, means a company which—

- (a) is approved for the purposes of this Chapter for that period by the Commissioners for Her Majesty's Revenue and Customs, and
- (b) is not a close company at any time in that period.

### 1159 Conditions for approval

- (1) The Commissioners for Her Majesty's Revenue and Customs must not approve a company under section 1158 for an accounting period unless it is shown to their satisfaction that each of conditions A to F is met.

*Condition A*

The company must be UK resident throughout the accounting period.

*Condition B*

The shares making up the company's ordinary share capital (or if they are of more than one class, those of each class) must be included in the official UK list throughout the accounting period.

*Condition C*

The company's income of the accounting period must be derived wholly or mainly from shares or securities.

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#### *Condition D*

The company must not retain in respect of the accounting period an amount which is greater than 15% of the income it derives from shares or securities (but see section 1161).

#### *Condition E*

The company must not at any time in the accounting period have a holding in a company that represents more than 15% by value of the investing company's investments (but see section 1162).

#### *Condition F*

The company's memorandum or articles of association must prohibit the distribution as dividend of surpluses arising from the realisation of investments.

- (2) The conditions lettered A to F in subsection (1) are referred to by those letters in this Chapter.

### **1160 Calculation of income**

- (1) Subsections (2) to (4) apply in determining, for the purposes of condition C or D (and accordingly of section 1161(2)(a)), with respect to any accounting period of a company—
- (a) the amount of a company's income, or
  - (b) the amount of income which a company derives from shares or securities.
- (2) The amounts to be brought into account under Part 5 of CTA 2009 in respect of the company's loan relationships are to be determined without reference to any debtor relationships of the company.
- (3) The excess of—
- (a) any credits brought into account in respect of the accounting period by virtue of section 574 of CTA 2009 (non-trading credits in respect of derivative contracts), over
  - (b) any debits brought into account in respect of the accounting period by virtue of that section (non-trading debits in respect of derivative contracts),
- is to be treated as income of the period which is derived from shares or securities.
- (4) Income treated as arising under regulation 18(1) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) is to be ignored.
- (5) In determining the amount of a company's income for the purposes of condition C, no account is to be taken of any amount treated under section 1229(3)(b) of CTA 2009 (claw back of relief for expenses of management) as a receipt chargeable under the charge to corporation tax on income.

### **1161 The income retention condition: exceptions**

- (1) Condition D does not apply in relation to an accounting period if the amount that the company would be required to distribute in order to meet the condition is less than—
- (a) £10,000, or
  - (b) if the period is shorter than 12 months, a proportionately reduced amount.
- (2) Condition D does not apply in relation to an accounting period if—

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- (a) by virtue of a restriction imposed by law, the company is required to retain in respect of the period an amount of income that exceeds 15% of the income the company derives from shares and securities, and
  - (b) either—
    - (i) the amount of income that the company retains in respect of the accounting period does not exceed the amount of income that it is required to retain in respect of the period by virtue of a restriction imposed by law, or
    - (ii) if there is such an excess, the amount of the excess plus the amount of any income that the company distributes in respect of the period is less than £10,000.
- (3) If the accounting period mentioned in subsection (2) is shorter than 12 months, the amount of £10,000 mentioned in subsection (2)(b)(ii) is proportionately reduced.

### 1162 The 15% holding limit: exceptions

- (1) In condition E the reference to a holding in a company does not include a holding in—
  - (a) an investment trust, or
  - (b) a company that would qualify as an investment trust but for condition B (listing in the official UK list).
- (2) Subsection (3) applies if a company has a holding in a company and immediately after—
  - (a) the time when the holding was acquired (if it has not been enlarged), or
  - (b) the most recent time when the holding was enlarged,
 the holding represented 15% or less by value of the investing company's investments.
- (3) For the purposes of condition E the holding is treated as continuing to represent 15% or less by value of the investing company's investments until the holding is next enlarged.
- (4) Subsection (5) applies if—
  - (a) a company disposes of shares or securities from a holding it has in a company,
  - (b) immediately before the disposal the holding represents more than 15% by value of the investing company's investments, and
  - (c) immediately after the disposal the holding represents 15% or less by value of the investing company's investments.
- (5) For the purpose of determining whether the investing company meets condition E in accounting periods later than that in which the disposal was made, the holding is treated (if it does not already fall to be so treated under subsection (3)) as continuing to represent 15% or less by value of the investing company's investments until the holding is next enlarged.
- (6) If a holding which a company has in another company—
  - (a) was acquired before 6 April 1965, and
  - (b) on 6 April 1965 represented 25% or less by value of the investing company's investments,
 condition E does not apply to the holding so long as it is not enlarged.



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### **1163 Basic meaning of “holding in a company”**

- (1) In this Chapter “holding in a company” means the shares or securities (whether of one class or more than one class) held in any one company.
- (2) For the purposes of section 1162 a holding in a company is enlarged whenever the company whose holding it is—
  - (a) acquires further shares or securities of the company, but
  - (b) does not do so by being allotted shares or securities without becoming liable to give any consideration.

### **1164 More about the meaning of “holding in a company”**

- (1) Subsection (2) applies if, in connection with a scheme of reconstruction—
  - (a) a company issues shares or securities,
  - (b) the shares or securities are issued to persons holding shares or securities in a second company in respect of and in proportion to (or as nearly as may be in proportion to) their holdings in the second company, and
  - (c) those persons do not become liable to give any consideration for the shares or securities.
- (2) For the purposes of this Chapter—
  - (a) a holding of the shares or securities of the second company, and
  - (b) a corresponding holding of the shares or securities issued by the first company,are to be regarded as the same holding.
- (3) For the purposes of this Chapter, holdings in two or more companies which are members of the same group are treated as holdings in a single company.
- (4) Subsection (3) does not apply to a holding in—
  - (a) an investment trust, or
  - (b) a company that would qualify as an investment trust but for condition B (listing in the official UK list).
- (5) For the purposes of subsection (3) it does not matter whether or not the group is one that includes the company which has the holdings.
- (6) If a company (“company A”) is a member of a group, money owed to it by another member of the group is treated, for the purpose of determining whether condition E is met—
  - (a) as a security of the latter held by company A, and
  - (b) accordingly as, or as part of, the holding of company A in the company owing the money.
- (7) In this section “group” means a company and all its 51% subsidiaries.

### **1165 Other interpretation**

- (1) In this Chapter “company” has the meaning given by section 1121 and is to be read in accordance with [F1 sections 99 and 103A of TCGA 1992 (application of that Act to unit trust schemes and to certain offshore funds)].

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- (2) In this Chapter “scheme of reconstruction” has the same meaning as in section 136 of TCGA 1992.
- (3) In this Chapter “shares” includes stock and is to be read in accordance with [F2 sections 99 and 103A of TCGA 1992].

#### Textual Amendments

- F1** Words in s. 1165(1) substituted by Finance Act 2009 (c. 10), Sch. 22 para. 11(2) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by 2010 c. 4, s. 1184(1), **Sch. 1 para. 716(2)** (with **Sch. 2**))
- F2** Words in s. 1165(3) substituted by Finance Act 2009 (c. 10), Sch. 22 para. 11(2) (as substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 716(2)** (with **Sch. 2**))

## CHAPTER 5

### OTHER CORPORATION TAX ACTS PROVISIONS

#### 1166 Scotland

- (1) In the application of the Corporation Tax Acts to Scotland—
- “assignment” means assignation,
  - “estate in land” includes the land,
  - “mortgage” means—
    - (a) a standard security, or
    - (b) a heritable security, as defined in the Conveyancing (Scotland) Act 1924, but including a security constituted by ex facie absolute disposition or assignation, and
  - “surrender” includes renunciation.
- (2) In the application of the Corporation Tax Acts to Scotland, any reference to property or rights being held on trust or on trusts is a reference to the property or rights being held in trust.

#### 1167 Sources of income within the charge to corporation tax or income tax

In the Corporation Tax Acts, a source of income is within the charge to corporation tax or income tax if that tax—

- (a) is chargeable on the income arising from it, or
  - (b) would be so chargeable if there were any income arising from it,
- and references to a person, or income, being within the charge to corporation tax or income tax are to be read in the same way.

#### 1168 Payment of dividends

- (1) For the purposes of the Corporation Tax Acts dividends are to be treated as paid on the date when they become due and payable.

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(2) Subsection (1) is subject to any provision to the contrary.

### **1169 Settlements and trustees**

(1) Chapter 2 of Part 9 of ITA 2007 (which relates to settlements and trustees) applies for the purposes of the Corporation Tax Acts as it applies for the purposes of the Income Tax Acts.

(2) See (in particular)—

- (a) section 466 of that Act, which explains what is meant by references to settled property, and
- (b) sections 467 to 473 of that Act, which explain what is meant by references to a settlor in relation to a settlement.

### **1170 Territorial sea of the United Kingdom**

The territorial sea of the United Kingdom is treated for the purposes of the Corporation Tax Acts as part of the United Kingdom.

### **1171 Orders and regulations**

(1) This section applies to all powers under the Corporation Tax Acts of the Treasury or the Commissioners for Her Majesty's Revenue and Customs to make orders or regulations, other than excluded powers.

(2) All powers under the following are excluded—

- (a) ICTA (see instead section 828 of that Act),
- (b) TCGA 1992 (see instead section 287 of that Act),
- (c) CAA 2001 (see instead section 570B of that Act),
- (d) Part 4 of FA 2004 (see instead section 282 of that Act),
- (e) CTA 2009 (see instead section 1310 of that Act),
- (f) TIOPA 2010 (see instead section 372 of that Act), and
- (g) the following provisions of this Act—

- (i) section 204(3) (markets in the United Kingdom on which shares or securities are dealt in), and
- (ii) section 1150(1) (meaning of “investment transaction”).

(3) Any power to which this section applies is exercisable by statutory instrument.

(4) Any statutory instrument containing any order or regulations made under a power to which this section applies is subject to annulment in pursuance of a resolution of the House of Commons.

(5) Subsection (4) does not apply in relation to any order or regulations made under—

- (a) section 73A of FA 2004 (exemption for designated international organisations), or
- (b) either of the following provisions of this Act—
  - (i) section 1120(2)(e) (designation of international organisations as banks), or
  - (ii) section 1180(2) (power to make transitional or saving provision in connection with the coming into force of this Act).

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- (6) Further, subsection (4) does not apply—
- (a) if any other Parliamentary procedure is expressly provided to apply in relation to the order or regulations, or
  - (b) if the order in question appoints a day for the purposes of any provision of the Corporation Tax Acts from which the provision will have effect (with or without amendments) or will cease to have effect.
- (7) Subsection (4) is also subject to any other provision to the contrary.

### **1172 Apportionment to different periods**

- (1) Any apportionment to different periods which falls to be made under the Corporation Tax Acts is to be made on a time basis according to the respective lengths of the periods.
- (2) Subsection (1) is subject to any provision to the contrary.

### **1173 Miscellaneous charges**

- (1) In the Corporation Tax Acts references to any provision to which this section applies are references to any provision listed in the following table, so far as the provision relates to corporation tax (but subject to any applicable limitation in subsection (3)).
- (2) This is the table—

#### PART 1

| <i>Provisions of CTA 2009</i>  | <i>Description</i>   |
|--|--|
| Chapter 15 of Part 3   | Post-cessation receipts: trades  |
| Chapter 7 of Part 4  | Rent receivable in connection with a UK section 39(4) concern                              |
| Chapter 8 of Part 4  | Rent receivable for UK electric-line wayleaves   |
| Chapter 9 of Part 4  | Post-cessation receipts: UK property businesses  |
| Section 752  | Non-trading gains on intangible fixed assets   |
| Section 908  | Profits from disposals of know-how   |
| Section 912  | Profits from sales of patent rights  |
| Section 965(4)   | Adjustments after the administration period  |
| Chapter 8 of Part 10   | Income not otherwise charged   |
| Section 986(4), so far as it relates to an amount treated as received under section 998(3) | Withdrawal of deductions if approval for share incentive plan withdrawn: non-trading cases |

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|                 |   |
|-----------------|---|
| Section 1083(5) | Refunds of expenditure on research and development  |
| Section 1229    | Management expenses: claw back of relief  |
| Section 1252    | Industrial development grants: companies with investment business                                       |
| Section 1253    | Contributions to local enterprise organisations or urban regeneration companies: disqualifying benefits |
| Section 1254    | Repayments under FISMA 2000   |
| Section 1277(4) | Withdrawal of relief for unremittable foreign income after source ceases                                |

## PART 2

| <i>Provisions of this Act</i> | <i>Description</i>                                      |
|-------------------------------|---|
| Section 538(3)                | Real estate investment trusts: entry charge             |
| Section 636(1)                | Banks etc in compulsory liquidation                     |
| Section 779(2)                | Loan or credit transactions                             |
| Section 818(1)                | Gains from transactions in land                         |
| Section 851(8)                | Sale and lease-back: taxation of consideration          |
| Section 874(1)                | Leased assets: capital sums                             |
| Section 1086(2)               | Chargeable payments connected with exempt distributions |

## PART 3

| <i>Other provisions</i>   | <i>Description</i>  |
|---------------------------|---|
| Section 56(2) of ICTA     | Transactions in deposits  |
| Section 436A(1) of ICTA   | Gross roll-up business: separate charge on profits                    |
| Section 442A(1) of ICTA   | Taxation of investment return where risk reinsured                    |
| Section 571(1) of ICTA    | Cancellation of tax certificates                                      |
| Section 774(1) of ICTA    | Transactions between dealing company and associated company           |
| Section 85(1) of FA 1989  | Certain receipts of basic life assurance and general annuity business |
| Section 85A(1) of FA 1989 | Excess adjusted life assurance trade profits                          |

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|--|--|
| Section 256(2) of CAA 2001   | Life assurance business: capital allowances  |
| Section 254(2) of TIOPA 2010   | Tax arbitrage: calculation or recalculation of income etc following receipt notice |
| Regulation 18(4) of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001) | Offshore income gains  |

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- (3) The reference in Part 1 of the above table to Chapter 8 of Part 10 of CTA 2009 does not include that Chapter so far as relating to income which arises from a source outside the United Kingdom.

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