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## SCHEDULES

### SCHEDULE 1

Section 364

#### OIL ACTIVITIES: NEW CHAPTER 16A OF PART 2 OF ITTOIA 2005

- 1 ITTOIA 2005 is amended as follows.  
2 After section 225 insert—

#### “CHAPTER 16A

#### OIL ACTIVITIES

#### *Basic definitions*

#### **225A Meaning of “oil extraction activities”**

- (1) In this Chapter “oil extraction activities” means activities within any of subsections (2) to (5) (but see also section 225M(6)).
- (2) Activities of a person in searching for oil in the United Kingdom or a designated area or causing such searching to be carried out for that person.
- (3) Activities of a person in extracting, or causing to be extracted for that person, oil at any place in the United Kingdom or a designated area under rights which—
  - (a) authorise the extraction, and
  - (b) are held by that person.
- (4) Activities of a person in transporting, or causing to be transported for that person, oil extracted at any such place not on dry land under rights which—
  - (a) authorise the extraction, and
  - (b) are held by that person,if the transportation meets condition A or B (see subsections (6) and (7)).
- (5) Activities of a person in effecting, or causing to be effected for that person, the initial treatment or initial storage of oil won from any oil field under rights which—
  - (a) authorise its extraction, and
  - (b) are held by that person.
- (6) Condition A is that the transportation is to the place where the oil is first landed in the United Kingdom.
- (7) Condition B is that the transportation—
  - (a) is to the place in the United Kingdom, or

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- (b) in the case of oil first landed in another country, is to the place in that or any other country (other than the United Kingdom), at which the seller in a sale at arm's length could reasonably be expected to deliver it (or, if there is more than one such place, the one nearest to the place of extraction).
- (8) The definition of “initial storage” in section 12(1) of OTA 1975 applies for the purposes of this section.
- (9) But in its application for those purposes in relation to the person mentioned in subsection (5) and to oil won from any one oil field, that definition is to have effect as if the reference to the maximum daily production rate of oil for the field mentioned in that definition were to a share of that maximum daily production rate proportionate to that person's share of the oil won from that field.
- (10) In this section “initial treatment” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

#### **225B Meaning of “oil rights”**

In this Chapter “oil rights” means—

- (a) rights to oil to be extracted at any place in the United Kingdom or a designated area, or
- (b) rights to interests in or to the benefit of such oil.

#### **225C Meaning of “ring fence income”**

In this Chapter “ring fence income” means income arising from oil extraction activities or oil rights.

#### **225D Meaning of “ring fence trade”**

In this Chapter “ring fence trade” means activities which—

- (a) are within the definition of “oil-related activities” in section 16(2) (oil extraction and related activities), and
- (b) constitute a separate trade (whether because of section 16(1) or otherwise).

#### **225E Other definitions**

In this Chapter—

“chargeable period” has the same meaning as in Part 1 of OTA 1975 (see section 1(3) of that Act),

“designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964,

“oil” means any substance won or capable of being won under the authority of a licence granted under Part 1 of the Petroleum Act 1998 or the Petroleum (Production) Act (Northern Ireland) 1964 (c. 28 (N.I.)), other than methane gas won in the course of operations for making and keeping mines safe,

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“oil field” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act),

“OTA 1975” means the Oil Taxation Act 1975, and

“participator” has the same meaning as in Part 1 of OTA 1975 (see section 12(1) of that Act).

### *Oil valuation*

#### **225F Valuation where market value taken into account under section 2 of OTA 1975**

- (1) This section applies if a person disposes of oil in circumstances such that the market value of the oil—
  - (a) falls to be taken into account under section 2 of OTA 1975, otherwise than by virtue of paragraph 6 of Schedule 3 to that Act, in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or
  - (b) would so fall but for section 10 of that Act.
- (2) For income tax purposes, the disposal of the oil, and its acquisition by the person to whom it was disposed of, are to be treated as having been for a consideration equal to the market value of the oil—
  - (a) as so taken into account under section 2 of that Act, or
  - (b) as would have been so taken into account under that section but for section 10 of that Act.

#### **225G Valuation where disposal not sale at arm's length**

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that a person disposes of oil acquired by the person—
  - (a) in the course of oil extraction activities carried on by the person, or
  - (b) as a result of oil rights held by the person.
- (3) Condition B is that the disposal is not a sale at arm's length (as defined in paragraph 1 of Schedule 3 to OTA 1975).
- (4) Condition C is that section 225F does not apply in relation to the disposal.
- (5) For income tax purposes, the disposal of the oil, and its acquisition by the person to whom it was disposed of, are to be treated as having been for a consideration equal to the market value of the oil.
- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.
- (7) Those modifications are that—
  - (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is disposed of as mentioned in this section, and

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- (b) paragraph 2(4) is to be treated as omitted.

### **225H Valuation where excess of nominated proceeds**

- (1) This section applies if an excess of nominated proceeds for a chargeable period—
  - (a) is taken into account in calculating a person's profits under section 2(5)(e) of OTA 1975, or
  - (b) would have been so taken into account if the person were chargeable to tax under OTA 1975 in respect of an oil field.
- (2) For income tax purposes, the amount of the excess is to be added to the consideration which the person is treated as having received in respect of oil disposed of by that person in the period.

### **225I Valuation where relevant appropriation but no disposal**

- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a person makes a relevant appropriation of oil without disposing of it.
- (3) Condition B is that the person does so in circumstances such that the market value of the oil—
  - (a) falls to be taken into account under section 2 of OTA 1975 in calculating for petroleum revenue tax purposes the assessable profit or allowable loss accruing to that person in a chargeable period from an oil field, or
  - (b) would so fall but for section 10 of that Act.
- (4) For income tax purposes, the person is to be treated as having, at the time of the appropriation—
  - (a) sold the oil in the course of the separate trade consisting of activities falling within the definition of “oil-related activities” in section 16(2) (oil extraction and related activities), and
  - (b) purchased it in the course of the separate trade consisting of activities not so falling.
- (5) For income tax purposes, that sale and purchase is to be treated as having been at a price equal to the market value of the oil—
  - (a) as so taken into account under section 2 of OTA 1975, or
  - (b) as would have been so taken into account under that section but for section 10 of that Act.
- (6) In this section “relevant appropriation” has the meaning given by section 12(1) of OTA 1975.

### **225J Valuation where appropriation to refining etc**

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that a person appropriates oil acquired by the person—
  - (a) in the course of oil extraction activities carried on by the person, or

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- (b) as a result of oil rights held by the person.
- (3) Condition B is that the oil is appropriated to refining or to any use except the production purposes of an oil field (as defined in section 12(1) of OTA 1975).
- (4) Condition C is that section 225I does not apply in relation to the appropriation.
- (5) For income tax purposes—
  - (a) the person is to be treated as having, at the time of the appropriation, sold and purchased the oil as mentioned in section 225I(4)(a) and (b), and
  - (b) that sale and purchase is to be treated as having been at a price equal to the market value of the oil.
- (6) Paragraphs 2 and 3A of Schedule 3 to OTA 1975 (definition of market value of oil including light gases) apply for the purposes of this section as they apply for the purposes of Part 1 of that Act, but with the following modifications.
- (7) Those modifications are that—
  - (a) any reference in paragraph 2 to the notional delivery day for the actual oil is to be read as a reference to the day on which the oil is appropriated as mentioned in this section,
  - (b) any reference in paragraphs 2 and 2A to oil being relevantly appropriated is to be read as a reference to its being appropriated as mentioned in this section, and
  - (c) paragraph 2(4) is to be treated as omitted.

#### *Regional development grants*

### **225K Reduction of expenditure by reference to regional development grant**

- (1) This section applies if conditions A and B are met.
- (2) Condition A is that a person has incurred expenditure (by way of purchase, rent or otherwise) on the acquisition of an asset in a transaction to which paragraph 2 of Schedule 4 to OTA 1975 applies (transactions between connected persons or otherwise than at arm's length).
- (3) Condition B is that the expenditure incurred by the other person mentioned in that paragraph in acquiring, bringing into existence or enhancing the value of the asset as mentioned in that paragraph—
  - (a) has been or is to be met by a regional development grant, and
  - (b) falls (in whole or in part) to be taken into account under Part 2 or 6 of CAA 2001 (capital allowances relating to plant and machinery or research and development).
- (4) Subsection (5) applies for the purposes of the charge to income tax on the income arising from the activities of the person mentioned in subsection (2) which are treated by section 16(1) (oil extraction and related activities) as a separate trade for those purposes.

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- (5) The expenditure mentioned in subsection (2) is to be reduced by the amount of the regional development grant mentioned in subsection (3).
- (6) In this section “regional development grant” means a grant falling within section 534(1) of CAA 2001 (Northern Ireland regional development grant).

### **225L Adjustment as a result of regional development grant**

- (1) This section applies if conditions A, B and C are met.
- (2) Condition A is that expenditure incurred by a person in relation to an asset in a tax year (“the initial period”) has been or is to be met by a regional development grant.
- (3) Condition B is that, despite the provisions of section 534(2) and (3) of CAA 2001 (Northern Ireland regional development grants) and section 225K of this Act, in determining that person's liability to income tax for the initial period, the whole or some part of that expenditure falls to be taken into account under Part 2 or 6 of CAA 2001.
- (4) Condition C is that—
  - (a) expenditure on the asset becomes allowable under section 3 or 4 of OTA 1975 in a tax year (an “adjustment period”) subsequent to the initial period, or
  - (b) the proportion of any such expenditure which is allowable in an adjustment period is different as compared with the initial period.
- (5) There is to be redetermined for the purposes of subsections (7) and (8) the amount of the expenditure mentioned in subsection (2) which would have been taken into account as mentioned in subsection (3) if the circumstances mentioned in subsection (4) had existed in the initial period.
- (6) According to whether the amount as so redetermined is greater or less than the amount actually taken into account as mentioned in subsection (3), the difference is referred to in subsections (7) and (8) as the increase or the reduction in the allowance.
- (7) If there is an increase in the allowance, an amount of capital expenditure equal to the increase is to be treated, for the purposes of Part 2 or 6 of CAA 2001, as having been incurred by the person concerned in the adjustment period on an extension of, or addition to, the asset mentioned in subsection (2).
- (8) If there is a reduction in the allowance, the person concerned is to be treated, for the purpose of determining that person's liability to income tax, as having received in the adjustment period, as income of the trade in connection with which the expenditure mentioned in subsection (2) was incurred, a sum equal to the amount of the reduction in the allowance.
- (9) In this section “regional development grant” has the meaning given by section 225K(6).

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### *Tariff receipts etc*

#### **225M Tariff receipts etc**

- (1) Subsection (5) applies to a sum which meets conditions A, B and C.
- (2) Condition A is that the sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator in an oil field.
- (3) Condition B is that the sum constitutes consideration in the nature of income rather than capital.
- (4) Condition C is that the sum would not, but for subsection (5), be treated as mentioned in that subsection.
- (5) The sum is to be treated as a receipt of the separate trade mentioned in section 16(1) (oil extraction and related activities).
- (6) So far as they would not otherwise be so treated, the activities—
  - (a) of a participator in an oil field, or
  - (b) of a person connected with the participator,in making available an asset in a way which gives rise to tariff receipts or tax-exempt tariffing receipts of the participator are to be treated for the purposes of this Chapter as oil extraction activities.
- (7) In determining for the purposes of subsection (2) whether a sum constitutes a tariff receipt or tax-exempt tariffing receipt of a person who is a participator, no account may be taken of any sum which—
  - (a) is in fact received or receivable by a person connected with the participator, and
  - (b) constitutes a tariff receipt or tax-exempt tariffing receipt of the participator.But in relation to the person by whom such a sum is actually received, subsection (2) has effect as if the person were a participator and as if condition A were met.
- (8) References in this section to a person connected with a participator include a person with whom the person is associated, within the meaning of paragraph 11 of Schedule 2 to the Oil Taxation Act 1983, but section 878(5) of this Act (application of definition of “connected” persons) does not apply for the purposes of this section.
- (9) In this section—
  - “tax-exempt tariffing receipt” has the meaning given by section 6A(2) of the Oil Taxation Act 1983, and
  - “tariff receipt” has the same meaning as in that Act.

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### *Abandonment guarantees*

#### **225N Expenditure on and under abandonment guarantees**

- (1) Subsection (2) applies if, as a result of section 3(1)(hh) of OTA 1975 (obtaining abandonment guarantee), expenditure incurred by a participator in an oil field is allowable (in whole or in part) for petroleum revenue tax purposes under section 3 of that Act.
- (2) So far as that expenditure is so allowable, it is to be allowed as a deduction in calculating the participator's ring fence income.
- (3) Subsection (4) applies if a payment is made by the guarantor under an abandonment guarantee.
- (4) So far as any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, the expenditure is not to be regarded for income tax purposes as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (5) See also section 225P (payment under abandonment guarantee not immediately applied).
- (6) In this Chapter—
  - “abandonment guarantee” has the same meaning as it has for the purposes of section 105 of FA 1991 (see section 104 of that Act), and
  - “the guarantor” and “the relevant participator” have the same meaning as in section 104 of that Act.

#### **225O Relief for reimbursement expenditure under abandonment guarantees**

- (1) This section applies if—
  - (a) a payment (“the guarantee payment”) is made by the guarantor under an abandonment guarantee,
  - (b) as a result of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum to the guarantor, and
  - (c) expenditure is incurred, or consideration in money's worth is given, by the relevant participator in or towards meeting that liability.
- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1)(c) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.
- (3) So much of any reimbursement expenditure as constitutes qualifying expenditure (see subsection (4)) is to be allowed as a deduction in calculating the relevant participator's ring fence income; and no part of the expenditure which is so allowed is to be otherwise deductible or allowable by way of relief for income tax purposes.



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- (4) The amount of reimbursement expenditure incurred in any tax year by the relevant participator which constitutes qualifying expenditure is determined by the formula—

$$A \times \frac{B}{C}$$

where—

A is the reimbursement expenditure incurred in the tax year,

B is so much of the expenditure represented by the guarantee payment as, had it been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in calculating the relevant participator's ring fence income, and

C is the total of the sums which, at or before the end of the tax year, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b).

But this is subject to subsection (5).

- (5) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure may not exceed whichever is the less of B and C in subsection (4).
- (6) Any limitation on qualifying expenditure under subsection (5) is to be applied to the expenditure of a later tax year in preference to an earlier one.
- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable, and
  - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, because of section 225N(4) is not to be regarded as expenditure incurred by the relevant participator).
- (8) See also—
- (a) section 225P (payment under abandonment guarantee not immediately applied), and
  - (b) section 225Q which excludes amounts from subsection (1).

### **225P Payment under abandonment guarantee not immediately applied**

- (1) This section applies if—
- (a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure,
  - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
  - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account.
- (2) The references in sections 225N(4) and 225O(7) to expenditure which is met, directly or indirectly, out of the payment are to be read as references to so much of the expenditure for which the relevant participator is liable as

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is met out of those assets of the fund or account which, at the subsequent time mentioned in subsection (1)(c), it is just and reasonable to attribute to the payment.

### **225Q Amounts excluded from section 225O(1)**

- (1) This section applies if—
  - (a) the whole of the guarantee payment mentioned in section 225O, or of the assets which under section 225P are attributed to the guarantee payment, is not applied in meeting liabilities of the relevant participator so mentioned which fall within section 104(1)(a) and (b) of FA 1991, and
  - (b) a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor so mentioned.
- (2) Any liability of the relevant participator to repay that sum is to be excluded in determining the total liability of the relevant participator which falls within section 225O(1)(b).
- (3) The repayment to the guarantor of that sum is not to be regarded as expenditure incurred by the relevant participator as mentioned in section 225O(1)(c).

### *Abandonment expenditure*

### **225R Introduction to sections 225S and 225T**

- (1) Sections 225S and 225T apply if—
  - (a) paragraph 2A of Schedule 5 to OTA 1975 applies, or would apply if a claim under paragraph 2A(2) of that Schedule were made, and
  - (b) the default payment falls (in whole or part) to be attributed to the contributing participator under paragraph 2A(2) of that Schedule.
- (2) In section 225S “the additional abandonment expenditure” means the amount which is attributed to the contributing participator as mentioned in subsection (1)(b) (whether representing the whole or only part of the default payment).
- (3) In this Chapter “default payment”, “the defaulter” and “contributing participator” have the same meaning as in paragraph 2A of Schedule 5 to OTA 1975.

### **225S Relief for expenditure incurred by a participator in meeting defaulter's abandonment expenditure**

- (1) Relief by way of capital allowance, or a deduction in calculating ring fence income, is to be available to the contributing participator in respect of the additional abandonment expenditure if any such relief or deduction would have been available to the defaulter if—
  - (a) the defaulter had incurred the additional abandonment expenditure, and

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- (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.
- (2) The basis of qualification for or entitlement to any relief or deduction which is available to the contributing participator under this section is to be determined on the assumption that the conditions in subsection (1)(a) and (b) are met.
- (3) But, subject to subsection (2), any such relief or deduction is to be available in the same way as if the additional abandonment expenditure had been incurred by the contributing participator for the purposes of the ring fence trade carried on by the contributing participator.

### **225T Reimbursement by defaulter in respect of certain abandonment expenditure**

- (1) This section applies if expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the contributing participator in respect of, or otherwise making good to the contributing participator, the whole or any part of the default payment.
- (2) In this section “reimbursement expenditure” means expenditure incurred as mentioned in subsection (1) or consideration (or the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure is to be read accordingly.
- (3) Reimbursement expenditure is to be allowed as a deduction in calculating the defaulter's ring fence income (but this is subject to subsection (6)).
- (4) Reimbursement expenditure received by the contributing participator is to be treated as a receipt (in the nature of income) of the participator's ring fence trade for the relevant tax year (but this is subject to subsection (6)).
- (5) Any additional assessment to income tax required in order to take account of the receipt of reimbursement expenditure by the contributing participator may be made at any time not later than 4 years after the end of the calendar year in which the reimbursement expenditure is so received.
- (6) In relation to a particular default payment, reimbursement expenditure incurred at any time—
  - (a) is to be allowed as mentioned in subsection (3), and
  - (b) is to be taken into account as a result of subsection (4) in calculating the contributing participator's ring fence income,only so far as, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the contributing participator as mentioned in section 225R(1)(b).
- (7) The incurring of reimbursement expenditure is not to be regarded, by virtue of section 532 of CAA 2001 (the general rule excluding contributions), as the meeting of the expenditure of the contributing participator in making the default payment.
- (8) In subsection (4) “the relevant tax year” means—

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- (a) the tax year in which the reimbursement expenditure is received by the contributing participator, or
- (b) if the contributing participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last tax year in which that trade was carried on.

*Interest on repayment of APRT*

**225U Interest on repayment of APRT**

- (1) Subsection (2) applies if interest is paid to a participator under paragraph 10(4) of Schedule 19 to FA 1982 (interest on advance petroleum revenue tax which becomes repayable).
- (2) The interest paid is to be disregarded in calculating the participator's income for income tax purposes.”

SCHEDULE 2

Section 365

ALTERNATIVE FINANCE ARRANGEMENTS

**PART 1**

NEW PART 10A OF ITA 2007

- 1 ITA 2007 is amended as follows.
- 2 After Part 10 insert—

**“PART 10A**

ALTERNATIVE FINANCE ARRANGEMENTS

*Introduction*

**Introduction**

564A(1) This Part—

- (a) contains provisions about the treatment as interest for certain income tax purposes of alternative finance return under alternative finance arrangements with financial institutions (see sections 564M to 564Q), and
  - (b) contains some special provisions about the treatment of investment bond arrangements (see sections 564R to 564U) and some other rules about alternative finance arrangements (see sections 564V to 564Y).
- (2) In this Part “alternative finance arrangements” means—
- (a) purchase and resale arrangements,

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- (b) diminishing shared ownership arrangements,
- (c) deposit arrangements,
- (d) profit share agency arrangements, and
- (e) investment bond arrangements.

(3) In this Part—

- (a) “purchase and resale arrangements” means arrangements to which section 564C applies,
- (b) “diminishing shared ownership arrangements” means arrangements to which section 564D applies,
- (c) “deposit arrangements” means arrangements to which section 564E applies,
- (d) “profit share agency arrangements” means arrangements to which section 564F applies, and
- (e) “investment bond arrangements” means arrangements to which section 564G applies.

(4) For the meaning of “alternative finance return”, see sections 564I to 564L.

(5) For the meaning of “financial institution”, see section 564B.

(6) Also, see section 366 of TIOPA 2010 (power to extend this Part and other provisions to other arrangements by order).”

3 After section 564A insert—

**“564B Meaning of “financial institution”**

(1) In this Part “financial institution” means—

- (a) a bank, as defined by section 991,
- (b) a building society,
- (c) a wholly-owned subsidiary—
  - (i) of a bank within paragraph (a), or
  - (ii) of a building society,
- (d) a person authorised by a licence under Part 3 of the Consumer Credit Act 1974 to carry on a consumer credit business or consumer hire business within the meaning of that Act,
- (e) a bond-issuer, within the meaning of section 564G, but only in relation to any bond assets which are rights under purchase and resale arrangements, diminishing shared ownership arrangements or profit share agency arrangements,
- (f) a person authorised in a jurisdiction outside the United Kingdom—
  - (i) to receive deposits or other repayable funds from the public, and
  - (ii) to grant credits for its own account,
- (g) an insurance company as defined in section 431(2) of ICTA, or
- (h) a person who is authorised in a jurisdiction outside the United Kingdom to carry on a business which consists of effecting or carrying out contracts of insurance or substantially similar business but not an insurance special purpose vehicle as defined in section 431(2) of ICTA.

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- (2) For the purposes of subsection (1)(c) a company is a wholly-owned subsidiary of a bank or building society (“the parent”) if it has no members except—
- (a) the parent or persons acting on behalf of the parent, and
  - (b) the parent's wholly-owned subsidiaries or persons acting on behalf of the parent's wholly-owned subsidiaries.”

4 After section 564B insert—

*“Arrangements that are alternative finance arrangements*

**564C Purchase and resale arrangements**

- (1) This section applies to arrangements if—
- (a) they are entered into between two persons (“the first purchaser” and “the second purchaser”), one or both of whom are financial institutions, and
  - (b) under the arrangements—
    - (i) the first purchaser purchases an asset and sells it to the second purchaser,
    - (ii) the sale occurs immediately after the purchase or in the circumstances mentioned in subsection (2),
    - (iii) all or part of the second purchase price is not required to be paid until a date later than that of the sale,
    - (iv) the second purchase price exceeds the first purchase price, and
    - (v) the excess equates, in substance, to the return on an investment of money at interest.
- (2) The circumstances are that—
- (a) the first purchaser is a financial institution, and
  - (b) the asset referred to in subsection (1)(b)(i) was purchased by the first purchaser for the purpose of entering into arrangements within this section.
- (3) In this section—
- “the first purchase price” means the amount paid by the first purchaser in respect of the purchase, and
- “the second purchase price” means the amount payable by the second purchaser in respect of the sale.
- (4) This section is subject to section 564H (provision not at arm's length: exclusion of arrangements from this section and sections 564D to 564G).”

5 After section 564C insert—

**“564D Diminishing shared ownership arrangements**

- (1) This section applies to arrangements if under them—
- (a) a financial institution (“the first owner”) acquires a beneficial interest in an asset,

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- (b) another person (“the eventual owner”) also acquires a beneficial interest in it,
  - (c) the eventual owner is to make payments to the first owner amounting in aggregate to the consideration paid for the acquisition of the first owner's beneficial interest (but subject to any adjustment required for such a reduction as is mentioned in subsection (5)),
  - (d) the eventual owner is to acquire the first owner's beneficial interest (whether or not in stages) as a result of those payments,
  - (e) the eventual owner is to make other payments to the first owner (whether under a lease forming part of the arrangements or otherwise),
  - (f) the eventual owner has the exclusive right to occupy or otherwise to use the asset, and
  - (g) the eventual owner is exclusively entitled to any income, profit or gain arising from or attributable to the asset (including, in particular, an increase in its value).
- (2) For the purposes of subsection (1)(a) it does not matter if—
- (a) the first owner acquires its beneficial interest from the eventual owner,
  - (b) the eventual owner, or another person who is not the first owner, also has a beneficial interest in the asset, or
  - (c) the first owner also has a legal interest in it.
- (3) Subsection (1)(f) does not prevent the eventual owner from granting an interest or right in relation to the asset if the conditions in subsection (4) are met.
- (4) The conditions are that—
- (a) the grant is not to—
    - (i) the first owner,
    - (ii) a person controlled by the first owner, or
    - (iii) a person controlled by a person who also controls the first owner, and
  - (b) the grant is not required by the first owner or arrangements to which the first owner is a party.
- (5) Subsection (1)(g) does not prevent the first owner from—
- (a) having responsibility for any reduction in the asset's value, or
  - (b) having a share in a loss arising out of any such reduction.
- (6) This section is subject to section 564H (provision not at arm's length: exclusion of arrangements from section 564C, this section and sections 564E to 564G).”

6 After section 564D insert—

**“564E Deposit arrangements**

- (1) This section applies to arrangements if under them—
- (a) a person (“the depositor”) deposits money with a financial institution,

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- (b) the money, together with money deposited with the institution by other persons, is used by it with a view to producing a profit,
- (c) from time to time the institution makes or credits a payment to the depositor out of profit resulting from the use of the money,
- (d) the payment is in proportion to the amount deposited by the depositor, and
- (e) the payments so made or credited by the institution equate, in substance, to the return on an investment of money at interest.

(2) This section is subject to section 564H (provision not at arm's length: exclusion of arrangements from sections 564C and 564D, this section and sections 564F and 564G)."

7 After section 564E insert—

**“564F Profit share agency arrangements**

- (1) This section applies to arrangements if under them—
- (a) a person (“the principal”) appoints an agent,
  - (b) one or both of the principal and agent is a financial institution,
  - (c) the agent uses money provided by the principal with a view to producing a profit,
  - (d) the principal is entitled, to a specified extent, to profits resulting from the use of the money,
  - (e) the agent is entitled to any additional profits resulting from its use (and may also be entitled to a fee paid by the principal), and
  - (f) payments made because of the principal's entitlement to profits equate, in substance, to the return on an investment of money at interest.

(2) This section is subject to section 564H (provision not at arm's length: exclusion of arrangements from sections 564C to 564E, this section and section 564G)."

8 After section 564F insert—

**“564G Investment bond arrangements**

- (1) This section applies to arrangements if—
- (a) they provide for one person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”),
  - (b) they identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”),
  - (c) they specify a period at the end of which they cease to have effect (“the bond term”),
  - (d) the bond-issuer undertakes under the arrangements—
    - (i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer's possession,
    - (ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments), and



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- (iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“additional payments”),
  - (e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
  - (f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
  - (g) the bond-holder is able to transfer the rights under the arrangements to another person (who becomes the bond-holder because of the transfer),
  - (h) the arrangements are a listed security on a recognised stock exchange, and
  - (i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond-issuer, or would be if the bond-issuer applied those standards.
- (2) For the purposes of subsection (1)—
- (a) the bond-issuer may acquire bond assets before or after the arrangements take effect,
  - (b) the bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer,
  - (c) the identification of the bond assets mentioned in subsection (1)(b) and the undertakings mentioned in subsection (1)(d) and (f) may (but need not) be described as, or accompanied by a document described as, a declaration of trust,
  - (d) a reference to the management of assets includes a reference to disposal,
  - (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term,
  - (f) the amount of the additional payments may be—
    - (i) fixed at the beginning of the bond term,
    - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets, or
    - (iii) determined in some other way,
  - (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in subsection (1)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments,
  - (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them, and
  - (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.

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(3) This section is subject to section 564H (provision not at arm's length: exclusion of arrangements from sections 564C to 564F and this section)."

9 After section 564G insert—

**“564H Provision not at arm's length: exclusion of arrangements from sections 564C to 564G**

(1) Arrangements to which this section applies are not—

- (a) purchase and resale arrangements,
- (b) diminishing shared ownership arrangements,
- (c) deposit arrangements,
- (d) profit share agency arrangements, or
- (e) investment bond arrangements.

(2) This section applies to arrangements if—

- (a) apart from this section they would be alternative finance arrangements,
- (b) subsection (3) or (5) of section 147 of TIOPA 2010 (tax calculations to be based on arm's length, not actual, provision) requires the profits and losses of a person who is a party to the arrangements to be calculated for tax purposes as if the arm's length provision (within the meaning of that section) had been made or imposed rather than in accordance with the arrangements,
- (c) any person who is an affected person for the purposes of Part 4 of that Act (“the affected person”) is entitled to—
  - (i) relevant return in relation to the arrangements, or
  - (ii) an amount representing relevant return in relation to them, and
- (d) the affected person is not subject—
  - (i) to income tax or corporation tax, or
  - (ii) to any corresponding tax under the law of a territory outside the United Kingdom,
 on the relevant return or the amount representing it.

(3) In this section “relevant return”, in relation to arrangements, means any amount which would be alternative finance return if the arrangements were alternative finance arrangements.”

10 After section 564H insert—

*“Meaning of “alternative finance return”*

**564I Purchase and resale arrangements**

(1) In the case of purchase and resale arrangements, so much of the second purchase price as is specified under the following provisions of this section is alternative finance return for the purposes of this Part.

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- (2) If under the arrangements the whole of the second purchase price is paid on one day, the alternative finance return equals the amount by which the second purchase price exceeds the first purchase price.
- (3) If under the arrangements the second purchase price is paid by instalments, the alternative finance return in each instalment equals the appropriate amount.
- (4) The appropriate amount is an amount equal to the interest which would have been included in the instalment on the assumptions in subsection (5).
- (5) The assumptions are that—
  - (a) interest is payable on a loan by the first purchaser to the second purchaser of an amount equal to the first purchase price,
  - (b) the total interest payable on the loan is equal to the amount by which the second purchase price exceeds the first purchase price,
  - (c) the instalment is a part repayment of the principal of the loan with interest, and
  - (d) the loan is made on arm's length terms and accounted for under generally accepted accounting practice.
- (6) In this section expressions used in section 564C have the same meaning as in that section.”

11 After section 564I insert—

**“564J Purchase and resale arrangements where return in foreign currency**

- (1) If, in the case of purchase and resale arrangements, alternative finance return is paid in a currency other than sterling—
  - (a) by or to a person other than a company, and
  - (b) otherwise than for the purposes of a trade, profession or vocation or a property business,subsections (2) and (3) apply as respects that person.
- (2) The amount of the excess referred to in section 564I(2) and (5)(b) and the appropriate amount for the purposes of section 564I(3) and (4) are to be calculated in that other currency.
- (3) The amount of each payment of alternative finance return is to be translated into sterling at a spot rate of exchange for the day on which the payment is made.”

12 After section 564J insert—

**“564K Diminishing shared ownership arrangements**

- (1) In the case of diminishing shared ownership arrangements, payments by the eventual owner under the arrangements are alternative finance return for the purposes of this Part, except so far as subsection (2) or (3) applies to them.
- (2) This subsection applies to the payments so far as they amount to payments of the kind described in section 564D(1)(c) (payments to be made by the

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eventual owner to the institution, amounting to the consideration paid for the acquisition of the institution's beneficial interest).

(3) This subsection applies to the payments so far as they amount to payments in respect of any arrangement fee or legal or other expenses which the eventual owner is required under the arrangements to pay.

(4) In this section “the eventual owner” has the same meaning as in section 564D.”

13 After section 564K insert—

**“564L Other arrangements**

(1) In the case of deposit arrangements, amounts paid or credited as mentioned in section 564E(1)(c) by a financial institution under the arrangements (payments to depositor out of profits resulting from use of money) are alternative finance return for the purposes of this Part.

(2) In the case of profit share agency arrangements, amounts paid or credited by a financial institution in accordance with such an entitlement as is mentioned in section 564F(1)(d) (principal's entitlement to profits under the arrangements) are alternative finance return for the purposes of this Part.

(3) In the case of investment bond arrangements, the additional payments under the arrangements are alternative finance return for the purposes of this Part, but subject to subsection (4).

(4) If any part of the additional payments in respect of investment bond arrangements equates in substance to discount, that part is not treated as alternative finance return for income tax purposes.

(5) In this section “additional payments” has the same meaning as in section 564G (see subsection (1)(d)(iii) of that section).

(6) For the treatment of the part of the additional payments to which subsection (4) applies, see section 564R (treatment of discount).”

14 After section 564L insert—

*“Treatment of alternative finance return as interest etc*

**564M Treatment of alternative finance return as interest for ITTOIA 2005**

(1) Alternative finance return is treated as interest for the purposes of ITTOIA 2005.

(2) References to interest in section 380 of that Act (funding bonds) include references to alternative finance return.”

15 After section 564M insert—

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**“564N Alternative finance return under arrangements for trade or property business purposes**

- (1) This section applies so far as a person is a party to alternative finance arrangements for the purposes of—
  - (a) a trade, profession or vocation carried on by that person, or
  - (b) a property business of that person.
- (2) Alternative finance return paid by that person is treated as an expense of the trade, profession, vocation or business.
- (3) In section 58 of ITTOIA 2005—
  - (a) references to a loan include references to alternative finance arrangements, and
  - (b) references to interest include references to alternative finance return.”

16 After section 564N insert—

**“564O Relief for some alternative finance return under Chapter 1 of Part 8 etc**

- (1) Chapter 1 of Part 8 of this Act (interest payments) has effect as if—
  - (a) purchase and resale arrangements involved the making of a loan, and
  - (b) alternative finance return were interest.
- (2) Section 412 (information) has effect accordingly.”

17 After section 564O insert—

**“564P Tax relief schemes and arrangements**

Section 809ZG (tax relief schemes and arrangements) applies to alternative finance return as it applies to interest.”

18 After section 564P insert—

**“564Q Deduction of income tax at source under Part 15**

- (1) Chapter 2 of Part 15 (deduction of income tax at source: deduction by deposit-takers and building societies), and Chapter 19 of that Part so far as it has effect for the purposes of Chapter 2 of that Part, have effect as if—
  - (a) relevant alternative finance arrangements were a deposit,
  - (b) for the purposes of section 866(2)(a) such arrangements were a deposit consisting of a loan, and
  - (c) alternative finance return payable under such arrangements were interest.
- (2) For the purposes of subsection (1) alternative finance arrangements are relevant unless they are purchase and resale arrangements where the second purchaser is not a financial institution.

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- (3) In subsection (2) “the second purchaser” has the same meaning as in section 564C.
- (4) In Chapter 12 of Part 15 (funding bonds) references to interest include references to alternative finance return.
- (5) Chapters 3 to 5 of Part 15, and Chapter 19 of that Part so far as it has effect for the purposes of those Chapters, apply to alternative finance return as they apply to interest.”

19 After section 564Q insert—

*“Special rules for investment bond arrangements*

**564R Treatment of discount**

- (1) This section applies if any part of the additional payments in respect of investment bond arrangements is excluded from being alternative finance return by section 564L(4) because it equates in substance to discount.
- (2) That part is treated in accordance with section 381 of ITTOIA 2005 (discounts) unless subsection (3) applies.
- (3) If the arrangements are deeply discounted securities for the purposes of Chapter 8 of Part 4 of that Act (profits from deeply discounted securities), that part is treated in accordance with that Chapter.
- (4) In this section “additional payments” has the same meaning as in section 564G of this Act (see subsection (1)(d)(iii) of that section).”

20 After section 564R insert—

**“564S Treatment of bond-holder and bond-issuer**

- (1) This section applies for the purposes of the Income Tax Acts and irrespective of the position for other purposes.
- (2) The bond-holder under investment bond arrangements is not treated as having a legal or beneficial interest in the bond assets.
- (3) The bond-issuer under such arrangements is not treated as a trustee of the bond assets.
- (4) Profits accruing to the bond-issuer in connection with the bond assets are profits of the bond-issuer and not of the bond-holder (and do not arise to the bond-issuer in a fiduciary or representative capacity).
- (5) Payments made by the bond-issuer by way of redemption payment or additional payment are not made in a fiduciary or representative capacity.
- (6) The bond-holder is not entitled to relief for capital expenditure in connection with the bond assets.
- (7) Expressions used in this section have the same meaning as in section 564G.”

21 After section 564S insert—

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#### **“564T Treatment as securities**

- (1) Investment bond arrangements are securities for the purposes of the Income Tax Acts (including Chapters 1 to 5 of Part 7 of ITEPA 2003).
- (2) For those purposes—
  - (a) a reference in an enactment to redemption is to be taken as a reference to making the redemption payment, and
  - (b) a reference in an enactment to interest is to be taken as a reference to alternative finance return.
- (3) In subsection (2) “the redemption payment” has the same meaning as in section 564G (see subsection (1)(d)(ii) of that section).”

22 After section 564T insert—

#### **“564U Arrangements not unit trust scheme or offshore fund**

Investment bond arrangements are not—

- (a) a unit trust scheme for the purposes of section 1007 of this Act, or
- (b) an offshore fund for the purposes of section 354 of TIOPA 2010 so far as relating to income tax.”

23 After section 564U insert—

*“Other rules*

#### **564V Exclusion of alternative finance return from consideration for sale of assets**

- (1) If under purchase and resale arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of the Income Tax Acts (apart from section 564C).
- (2) If under diminishing shared ownership arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of the Income Tax Acts (apart from section 564D).
- (3) If under investment bond arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of the Income Tax Acts (apart from section 564G).
- (4) Subsections (1) to (3) do not affect the operation of any provision of the Tax Acts or TCGA 1992 that provides that the consideration for a sale or purchase is taken for any purpose to be an amount other than the actual consideration.”

24 After section 564V insert—

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**“564W Diminishing shared ownership arrangements not partnerships**

Diminishing shared ownership arrangements are not treated as a partnership for the purposes of the Income Tax Acts.”

25 After section 564W insert—

**“564X Treatment of principal under profit share agency arrangements**

- (1) The principal under profit share agency arrangements is not treated for the purposes of the Income Tax Acts as entitled to profits to which the agent is entitled in accordance with section 564F(1)(e).
- (2) And the agent under such arrangements is treated for those purposes as entitled to those profits and the profits specified in section 564F(1)(d).
- (3) In this section “the principal” and “the agent” are to be read in accordance with section 564F.”

26 After section 564X insert—

**“564Y Provision not at arm's length: relevant return**

- (1) This section applies if arrangements to which section 564H (provision not at arm's length: exclusion of arrangements from sections 564C to 564G) applies would, but for that section, be alternative finance arrangements.
- (2) A person paying relevant return under the arrangements is not entitled to—
  - (a) any deduction in respect of the relevant return in calculating profits or other income for income tax purposes, or
  - (b) any deduction in respect of the relevant return in calculating net income.
- (3) In this section “relevant return” has the same meaning as in section 564H (see subsection (3) of that section).”

**PART 2**

NEW CHAPTER 4 OF PART 4 OF TCGA 1992

27 TCGA 1992 is amended as follows.

28 After Chapter 3 of Part 4 insert—



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## “CHAPTER 4

### ALTERNATIVE FINANCE ARRANGEMENTS

#### *Introduction*

#### **Introduction**

151H) This Chapter makes provision about the treatment of alternative finance arrangements with financial institutions and alternative finance return under such arrangements for the purposes of this Act (see sections 151T to 151Y).

- (2) In this Chapter “alternative finance arrangements” means—
- (a) purchase and resale arrangements,
  - (b) diminishing shared ownership arrangements,
  - (c) deposit arrangements,
  - (d) profit share agency arrangements, and
  - (e) investment bond arrangements.
- (3) In this Chapter—
- (a) “purchase and resale arrangements” means arrangements to which section 151J applies,
  - (b) “diminishing shared ownership arrangements” means arrangements to which section 151K applies,
  - (c) “deposit arrangements” means arrangements to which section 151L applies,
  - (d) “profit share agency arrangements” means arrangements to which section 151M applies, and
  - (e) “investment bond arrangements” means arrangements to which section 151N applies.
- (4) For the meaning of “alternative finance return”, see sections 151P to 151S.
- (5) For the meaning of “financial institution”, see section 151I.
- (6) Also, see—
- (a) section 366 of TIOPA 2010 (power to extend this Chapter and other provisions to other arrangements by order), and
  - (b) Schedule 61 to FA 2009 (alternative finance investment bonds) which makes further provision about the treatment of investment bond arrangements for the purposes of this Act.”

29 After section 151H insert—

#### **“151I Meaning of “financial institution”**

- (1) In this Chapter “financial institution” means—
- (a) a bank, as defined by section 1120 of CTA 2010,
  - (b) a building society,
  - (c) a wholly-owned subsidiary—

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- (i) of a bank within paragraph (a), or
  - (ii) of a building society,
  - (d) a person authorised by a licence under Part 3 of the Consumer Credit Act 1974 to carry on a consumer credit business or consumer hire business within the meaning of that Act,
  - (e) a bond-issuer, within the meaning of section 151N, but only in relation to any bond assets which are rights under purchase and resale arrangements, diminishing shared ownership arrangements or profit share agency arrangements,
  - (f) a person authorised in a jurisdiction outside the United Kingdom—
    - (i) to receive deposits or other repayable funds from the public, and
    - (ii) to grant credits for its own account,
  - (g) an insurance company as defined in section 431(2) of ICTA, or
  - (h) a person who is authorised in a jurisdiction outside the United Kingdom to carry on a business which consists of effecting or carrying out contracts of insurance or substantially similar business but not an insurance special purpose vehicle as defined in section 431(2) of ICTA.
- (2) For the purposes of subsection (1)(c) a company is a wholly-owned subsidiary of a bank or building society (“the parent”) if it has no members except—
- (a) the parent or persons acting on behalf of the parent, and
  - (b) the parent's wholly-owned subsidiaries or persons acting on behalf of the parent's wholly-owned subsidiaries.”

30 After section 151I insert—

*“Arrangements that are alternative finance arrangements*

### **151J Purchase and resale arrangements**

- (1) This section applies to arrangements if—
- (a) they are entered into between two persons (“the first purchaser” and “the second purchaser”), one or both of whom are financial institutions, and
  - (b) under the arrangements—
    - (i) the first purchaser purchases an asset and sells it to the second purchaser,
    - (ii) the sale occurs immediately after the purchase or in the circumstances mentioned in subsection (2),
    - (iii) all or part of the second purchase price is not required to be paid until a date later than that of the sale,
    - (iv) the second purchase price exceeds the first purchase price, and
    - (v) the excess equates, in substance, to the return on an investment of money at interest.
- (2) The circumstances are that—

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- (a) the first purchaser is a financial institution, and
- (b) the asset referred to in subsection (1)(b)(i) was purchased by the first purchaser for the purpose of entering into arrangements within this section.

(3) In this section—

“the first purchase price” means the amount paid by the first purchaser in respect of the purchase, and

“the second purchase price” means the amount payable by the second purchaser in respect of the sale.

(4) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from this section and sections 151K to 151N).”

31 After section 151J insert—

#### **“151K Diminishing shared ownership arrangements**

(1) This section applies to arrangements if under them—

- (a) a financial institution (“the first owner”) acquires a beneficial interest in an asset,
- (b) another person (“the eventual owner”) also acquires a beneficial interest in it,
- (c) the eventual owner is to make payments to the first owner amounting in aggregate to the consideration paid for the acquisition of the first owner's beneficial interest (but subject to any adjustment required for such a reduction as is mentioned in subsection (5)),
- (d) the eventual owner is to acquire the first owner's beneficial interest (whether or not in stages) as a result of those payments,
- (e) the eventual owner is to make other payments to the first owner (whether under a lease forming part of the arrangements or otherwise),
- (f) the eventual owner has the exclusive right to occupy or otherwise to use the asset, and
- (g) the eventual owner is exclusively entitled to any income, profit or gain arising from or attributable to the asset (including, in particular, an increase in its value).

(2) For the purposes of subsection (1)(a) it does not matter if—

- (a) the first owner acquires its beneficial interest from the eventual owner,
- (b) the eventual owner, or another person who is not the first owner, also has a beneficial interest in the asset, or
- (c) the first owner also has a legal interest in it.

(3) Subsection (1)(f) does not prevent the eventual owner from granting an interest or right in relation to the asset if the conditions in subsection (4) are met.

(4) The conditions are that—

- (a) the grant is not to—
  - (i) the first owner,

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- (ii) a person controlled by the first owner, or
  - (iii) a person controlled by a person who also controls the first owner, and
  - (b) the grant is not required by the first owner or arrangements to which the first owner is a party.
- (5) Subsection (1)(g) does not prevent the first owner from—
- (a) having responsibility for any reduction in the asset's value, or
  - (b) having a share in a loss arising out of any such reduction.
- (6) Section 1124 of CTA 2010 (meaning of “control”) applies for the purposes of this section.
- (7) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from section 151J, this section and sections 151L to 151N).”

32 After section 151K insert—

**“151L Deposit arrangements**

- (1) This section applies to arrangements if under them—
- (a) a person (“the depositor”) deposits money with a financial institution,
  - (b) the money, together with money deposited with the institution by other persons, is used by it with a view to producing a profit,
  - (c) from time to time the institution makes or credits a payment to the depositor out of profit resulting from the use of the money,
  - (d) the payment is in proportion to the amount deposited by the depositor, and
  - (e) the payments so made or credited by the institution equate, in substance, to the return on an investment of money at interest.
- (2) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from sections 151J, 151K, this section and sections 151M and 151N).”

33 After section 151L insert—

**“151M Profit share agency arrangements**

- (1) This section applies to arrangements if under them—
- (a) a person (“the principal”) appoints an agent,
  - (b) one or both of the principal and agent is a financial institution,
  - (c) the agent uses money provided by the principal with a view to producing a profit,
  - (d) the principal is entitled, to a specified extent, to profits resulting from the use of the money,
  - (e) the agent is entitled to any additional profits resulting from its use (and may also be entitled to a fee paid by the principal), and

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- (f) payments made because of the principal's entitlement to profits equate, in substance, to the return on an investment of money at interest.

- (2) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from sections 151J to 151L, this section and section 151N)."

34 After section 151M insert—

#### **“151N Investment bond arrangements**

- (1) This section applies to arrangements if—
  - (a) they provide for one person (“the bond-holder”) to pay a sum of money (“the capital”) to another (“the bond-issuer”),
  - (b) they identify assets, or a class of assets, which the bond-issuer will acquire for the purpose of generating income or gains directly or indirectly (“the bond assets”),
  - (c) they specify a period at the end of which they cease to have effect (“the bond term”),
  - (d) the bond-issuer undertakes under the arrangements—
    - (i) to dispose at the end of the bond term of any bond assets which are still in the bond-issuer's possession,
    - (ii) to make a repayment of the capital (“the redemption payment”) to the bond-holder during or at the end of the bond-term (whether or not in instalments), and
    - (iii) to pay to the bond-holder other payments on one or more occasions during or at the end of the bond term (“additional payments”),
  - (e) the amount of the additional payments does not exceed an amount which would be a reasonable commercial return on a loan of the capital,
  - (f) under the arrangements the bond-issuer undertakes to arrange for the management of the bond assets with a view to generating income sufficient to pay the redemption payment and additional payments,
  - (g) the bond-holder is able to transfer the rights under the arrangements to another person (who becomes the bond-holder because of the transfer),
  - (h) the arrangements are a listed security on a recognised stock exchange, and
  - (i) the arrangements are wholly or partly treated in accordance with international accounting standards as a financial liability of the bond-issuer, or would be if the bond-issuer applied those standards.
- (2) For the purposes of subsection (1)—
  - (a) the bond-issuer may acquire bond assets before or after the arrangements take effect,
  - (b) the bond assets may be property of any kind, including rights in relation to property owned by someone other than the bond-issuer,
  - (c) the identification of the bond assets mentioned in subsection (1)(b) and the undertakings mentioned in subsection (1)(d) and (f) may (but

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- need not) be described as, or accompanied by a document described as, a declaration of trust,
- (d) a reference to the management of assets includes a reference to disposal,
- (e) the bond-holder may (but need not) be entitled under the arrangements to terminate them, or participate in terminating them, before the end of the bond term,
- (f) the amount of the additional payments may be—
  - (i) fixed at the beginning of the bond term,
  - (ii) determined wholly or partly by reference to the value of or income generated by the bond assets, or
  - (iii) determined in some other way,
- (g) if the amount of the additional payments is not fixed at the beginning of the bond term, the reference in subsection (1)(e) to the amount of the additional payments is a reference to the maximum amount of the additional payments,
- (h) the amount of the redemption payment may (but need not) be subject to reduction in the event of a fall in the value of the bond assets or in the rate of income generated by them, and
- (i) entitlement to the redemption payment may (but need not) be capable of being satisfied (whether or not at the option of the bond-issuer or the bond-holder) by the issue or transfer of shares or other securities.

(3) This section is subject to section 151O (provision not at arm's length: exclusion of arrangements from sections 151J to 151M and this section).”

35 After section 151N insert—

**“151O Provision not at arm's length: exclusion of arrangements from sections 151J to 151N**

- (1) Arrangements to which this section applies are not—
  - (a) purchase and resale arrangements,
  - (b) diminishing shared ownership arrangements,
  - (c) deposit arrangements,
  - (d) profit share agency arrangements, or
  - (e) investment bond arrangements.
- (2) This section applies to arrangements if—
  - (a) apart from this section they would be alternative finance arrangements,
  - (b) subsection (3) or (5) of section 147 of TIOPA 2010 (tax calculations to be based on arm's length, not actual, provision) requires the profits and losses of a person who is a party to the arrangements to be calculated for tax purposes as if the arm's length provision (within the meaning of that section) had been made or imposed rather than in accordance with the arrangements,
  - (c) any person who is an affected person for the purposes of Part 4 of that Act (“the affected person”) is entitled to—
    - (i) relevant return in relation to the arrangements, or

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- (ii) an amount representing relevant return in relation to them,  
and
- (d) the affected person is not subject—
  - (i) to income tax or corporation tax, or
  - (ii) to any corresponding tax under the law of a territory outside the United Kingdom,on the relevant return or the amount representing it.

- (3) In this section “relevant return”, in relation to arrangements, means any amount which would be alternative finance return if the arrangements were alternative finance arrangements.”

36 After section 151O insert—

*“Meaning of “alternative finance return”*

#### **151P Purchase and resale arrangements**

- (1) In the case of purchase and resale arrangements, so much of the second purchase price as is specified under the following provisions of this section is alternative finance return for the purposes of this Chapter.
- (2) If under the arrangements the whole of the second purchase price is paid on one day, the alternative finance return equals the amount by which the second purchase price exceeds the first purchase price.
- (3) If under the arrangements the second purchase price is paid by instalments, the alternative finance return in each instalment equals the appropriate amount.
- (4) The appropriate amount is an amount equal to the interest which would have been included in the instalment on the assumptions in subsection (5).
- (5) The assumptions are that—
  - (a) interest is payable on a loan by the first purchaser to the second purchaser of an amount equal to the first purchase price,
  - (b) the total interest payable on the loan is equal to the amount by which the second purchase price exceeds the first purchase price,
  - (c) the instalment is a part repayment of the principal of the loan with interest, and
  - (d) the loan is made on arm's length terms and accounted for under generally accepted accounting practice.
- (6) In this section expressions used in section 151J have the same meaning as in that section.”

37 After section 151P insert—

#### **“151Q Purchase and resale arrangements where return in foreign currency**

- (1) If, in the case of purchase and resale arrangements, alternative finance return is paid in a currency other than sterling—
  - (a) by or to a person other than a company, and

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(b) otherwise than for the purposes of a trade, profession or vocation or a property business,

subsections (2) and (3) apply as respects that person.

(2) The amount of the excess referred to in section 151P(2) and (5)(b) and the appropriate amount for the purposes of section 151P(3) and (4) are to be calculated in that other currency.

(3) The amount of each payment of alternative finance return is to be translated into sterling at a spot rate of exchange for the day on which the payment is made.”

38 After section 151Q insert—

**“151R Diminishing shared ownership arrangements**

(1) In the case of diminishing shared ownership arrangements, payments by the eventual owner under the arrangements are alternative finance return for the purposes of this Chapter, except so far as subsection (2) or (3) applies to them.

(2) This subsection applies to the payments so far as they amount to payments of the kind described in section 151K(1)(c) (payments to be made by the eventual owner to the institution, amounting to the consideration paid for the acquisition of the institution's beneficial interest).

(3) This subsection applies to the payments so far as they amount to payments in respect of any arrangement fee or legal or other expenses which the eventual owner is required under the arrangements to pay.

(4) In this section “the eventual owner” has the same meaning as in section 151K.”

39 After section 151R insert—

**“151S Other arrangements**

(1) In the case of deposit arrangements, amounts paid or credited as mentioned in section 151L(1)(c) by a financial institution under the arrangements (payments to depositor out of profits resulting from use of money) are alternative finance return for the purposes of this Chapter.

(2) In the case of profit share agency arrangements, amounts paid or credited by a financial institution in accordance with such an entitlement as is mentioned in section 151M(1)(d) (principal's entitlement to profits under the arrangements) are alternative finance return for the purposes of this Chapter.

(3) In the case of investment bond arrangements, the additional payments under the arrangements are alternative finance return for the purposes of this Chapter.

(4) In this section “additional payments” has the same meaning as in section 151N (see subsection (1)(d)(iii) of that section).”

40 After section 151S insert—



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*“Special rules for investment bond arrangements*

**151T Investment bond arrangements are qualifying corporate bonds**

- (1) For the purposes of section 117, investment bond arrangements are a corporate bond, issued on the date on which the arrangements are entered into, if each of conditions A to D is met.
- (2) Condition A is that the capital is expressed in sterling.
- (3) Condition B is that the arrangements do not include provision for the redemption payment to be in a currency other than sterling.
- (4) Condition C is that entitlement to the redemption payment is not capable of conversion (directly or indirectly) into an entitlement to the issue of securities apart from other arrangements to which section 151N applies.
- (5) Condition D is that the additional payments are not determined wholly or partly by reference to the value of the bond assets.
- (6) Section 117(2) applies for the purposes of this section as it applies for the purposes of section 117(1).”

41 After section 151T insert—

**“151U Treatment of bond-holder and bond-issuer**

- (1) This section applies for the purposes of this Act and any other enactment about capital gains tax and irrespective of the position for other purposes.
- (2) The bond-holder under investment bond arrangements is not treated as having a legal or beneficial interest in the bond assets.
- (3) The bond-issuer under such arrangements is not treated as a trustee of the bond assets.
- (4) Gains accruing to the bond-issuer in connection with the bond assets are gains of the bond-issuer and not of the bond-holder (and do not arise to the bond-issuer in a fiduciary or representative capacity).
- (5) Payments made by the bond-issuer by way of redemption payment or additional payment are not made in a fiduciary or representative capacity.
- (6) The bond-holder is not entitled to relief for capital expenditure in connection with the bond assets.
- (7) Expressions used in this section have the same meaning as in section 151N.”

42 After section 151U insert—

**“151V Treatment as securities**

- (1) Investment bond arrangements are securities for the purposes of this Act and any other enactment about capital gains tax.
- (2) For those purposes—

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- (a) a reference in an enactment to redemption is to be taken as a reference to making the redemption payment, and
- (b) a reference in an enactment to interest is to be taken as a reference to alternative finance return.

(3) In subsection (2) “the redemption payment” has the same meaning as in section 151N (see subsection (1)(d)(ii) of that section).”

43 After section 151V insert—

**“151W Investment bond arrangements not unit trust scheme or offshore fund**

Investment bond arrangements are not—

- (a) a unit trust scheme for the purposes of this Act, or
- (b) an offshore fund for the purposes of section 354 of TIOPA 2010 so far as relating to capital gains tax.”

44 After section 151W insert—

*“Other rules*

**151X Exclusion of some alternative finance return from sale consideration**

- (1) If under purchase and resale arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of this Act so far as it applies for capital gains tax (apart from section 151J).
- (2) If under diminishing shared ownership arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of this Act so far as it applies for capital gains tax (apart from section 151K).
- (3) If under investment bond arrangements an asset is sold by one party to the arrangements to the other party, the alternative finance return is excluded in determining the consideration for the sale and purchase of the asset for the purposes of this Act so far as it applies for capital gains tax (apart from section 151N).
- (4) Subsections (1) to (3) do not affect the operation of any provision of this Act or the Tax Acts that provides that the consideration for a sale or purchase is taken for any purpose to be an amount other than the actual consideration.”

45 After section 151X insert—

**“151Y Diminishing shared ownership arrangements not partnerships**

Diminishing shared ownership arrangements are not treated as a partnership for capital gains tax purposes.”

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## PART 3

### OTHER AMENDMENTS

#### *Income and Corporation Taxes Act 1988 (c. 1)*

46 ICTA is amended as follows.

47 After section 367 insert—

#### **“367A Alternative finance arrangements**

(1) Sections 353 and 365 have effect as if—

- (a) purchase and resale arrangements involved the making of a loan, and
- (b) alternative finance return were interest.

(2) Section 366 has effect accordingly.

(3) In this section—

“alternative finance return” has the meaning given in sections 564I to 564L of ITA 2007, and

“purchase and resale arrangements” means arrangements to which section 564C of ITA 2007 applies.”

#### *Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

48 ITEPA 2003 is amended as follows.

49 After section 173 (loans to which Chapter 7 of Part 3 (taxable benefits: loans) applies) insert—

#### **“173A Alternative finance arrangements**

(1) For the purposes of this Chapter a reference to a loan includes a reference to arrangements—

- (a) to which section 564C of ITA 2007 or section 503 of CTA 2009 (purchase and resale arrangements) applies (or would apply assuming one of the parties were a financial institution), or
- (b) to which section 564D of ITA 2007 or section 504 of CTA 2009 (diminishing shared ownership arrangements) applies (or would apply on that assumption).

(2) In the application of this Chapter as a result of this section, a reference to interest is to be treated as including alternative finance return (or anything that would be such return on that assumption).

(3) In the application of this Chapter as a result of this section, a reference to the amount outstanding is to be taken—

- (a) in the case of arrangements within subsection (1)(a), as a reference to the purchase price minus such part of the aggregate payments made as does not represent alternative finance return (or anything that would be such return on that assumption),
- (b) in the case of arrangements to which section 564D of ITA 2007 or section 504 of CTA 2009 applies, as a reference to the amount of

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the financial institution's original beneficial interest minus such part of the aggregate payments made as does not represent alternative finance return, and

- (c) in the case of arrangements to which section 564D of ITA 2007 or section 504 of CTA 2009 would apply assuming one of the parties were a financial institution, as a reference to the amount of that party's original beneficial interest minus such part of the aggregate payments made as does not represent anything that would be alternative finance return on that assumption.

- (4) In this section—

“alternative finance return” has the meaning given in sections 564I to 564L of ITA 2007 or sections 511 to 513 of CTA 2009, and  
“financial institution” has the meaning given in section 564B of ITA 2007 or section 502 of CTA 2009.

- (5) This section does not apply to arrangements entered into before 22 March 2006.”

*Income Tax Act 2007 (c. 3)*

50 ITA 2007 is amended as follows.

51 At the beginning of Chapter 7 of Part 7 (Community Investment Tax Relief: supplementary and general) insert—

*“Alternative finance arrangements*

**Meaning of “loan” and “interest”**

372A(1) In this Part and regulations made under Chapter 2 of this Part—

- (a) references to a “loan” include references to alternative finance arrangements, and  
(b) references to “interest” include references to alternative finance return.

- (2) In subsection (1)—

“alternative finance arrangements” means arrangements to which any of the following applies—

- (a) section 564C (purchase and resale arrangements),  
(b) section 564E (deposit arrangements), and  
(c) section 564F (profit share agency arrangements), and

“alternative finance return” has the meaning given by section 564I and 564L(1) and (2).

- (3) Subsection (1) needs to be read with—

- (a) section 372B, in the case of arrangements to which section 564C applies,  
(b) section 372C, in the case of arrangements to which section 564E applies, and  
(c) section 372D, in the case of arrangements to which section 564F applies.”

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52 After section 372A insert—

**“372B Purchase and resale arrangements**

- (1) This section applies if, under arrangements to which section 564C applies, a person (“the first purchaser”) purchases an asset that is sold to another person (“the second purchaser”).
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The first purchaser is treated as making a loan to the second purchaser.
- (4) The amount of the loan is treated as being equal to the first purchase price.
- (5) If the arrangements provide that the first purchaser will transfer ownership of the asset to the second purchaser in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the asset being transferred to the second purchaser in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is transferred to the second purchaser, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments transferred at that date.
- (6) In calculating the amount of capital outstanding on the loan, each payment of the second purchase price (or part of the second purchase price), as reduced by any amount of alternative finance return included within each payment, is treated as repayment of the loan capital.
- (7) References to the beneficial owner of the loan include references to the person beneficially entitled to payment of the second purchase price.
- (8) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive payment of the whole or any part of the outstanding second purchase price.
- (9) If arrangements to which section 564C applies are, as a result of this section, qualifying investments under Chapter 3 of this Part, paragraph (f) of section 366(1) is to be ignored in relation to the arrangements concerned.
- (10) In this section “the first purchase price” and “the second purchase price” have the same meaning as in section 564C.”

53 After section 372B insert—

**“372C Deposit arrangements**

- (1) This section applies if, under arrangements to which section 564E applies, a person (“the depositor”) deposits money with a financial institution.
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The depositor is treated as making a loan to the financial institution.

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- (4) The amount of the loan is treated as being equal to the money deposited under the arrangements.
- (5) If the arrangements provide that the depositor will deposit a sum of money with the financial institution in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the depositor depositing a sum of money with the financial institution in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is deposited with the financial institution, and
  - (c) references to the amount drawn down at a given date include references to the value of the instalments deposited with the financial institution at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable deposit.
- (7) References to any repayment of the loan include references to any repayment of the deposit.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the deposit.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the deposit.
- (10) In this section “financial institution” has the same meaning as in Part 10A (see section 564B).”

54 After section 372C insert—

**“372D Profit share agency arrangements**

- (1) This section applies if, under arrangements to which section 564F applies, a person (“the principal”) appoints a financial institution as agent.
- (2) This Part and regulations made under Chapter 2 of this Part have effect in relation to the arrangements in accordance with subsections (3) to (9).
- (3) The principal is treated as making a loan to the agent.
- (4) The amount of the loan is treated as being equal to the money provided by the principal to the agent under the arrangements.
- (5) If the arrangements provide that the principal will provide a sum of money to the agent in instalments—
  - (a) references to the loan being drawn down over a period of time include references to the principal providing a sum of money to the agent in instalments,
  - (b) references to the date on which the first amount of the loan is drawn down include references to the date on which the first instalment is provided to the agent, and

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- (c) references to the amount drawn down at a given date include references to the value of the instalments provided to the agent at that date.
- (6) The capital outstanding on the loan is treated as being equal to the balance of the repayable money provided to the agent.
- (7) References to any repayment of the loan include references to any repayment of the money provided to the agent.
- (8) References to the beneficial owner of the loan include references to the person beneficially entitled to repayment of the money provided to the agent.
- (9) References to the disposal of the whole or any part of the loan include references to the disposal of the right to receive repayment of the whole or any part of the money provided to the agent.
- (10) In subsection (1) “financial institution” has the same meaning as in Part 10A (see section 564B).”
- 55 In section 1005 (meaning of “recognised stock exchange” etc) after subsection (2) insert—
- “(2A) An order under subsection (1) may designate a stock exchange for the purposes of this section in its application to section 564G of this Act, section 151N of TCGA 1992 and section 507 of CTA 2009 only.”

## SCHEDULE 3

Section 367

### LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

#### PART 1

##### NEW PART 11A OF ITA 2007

- 1 ITA 2007 is amended as follows.
- 2 After Part 11 insert—

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## “PART 11A

### LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

#### CHAPTER 1

##### INTRODUCTION

###### *Introduction*

#### Overview of Part

- 614A(1) This Part makes provision for the purposes of income tax about the taxation of leasing arrangements.
- (2) Chapter 2 makes provision in relation to certain arrangements involving the lease of assets where the conditions in section 614BC are or have been met, so far as the lease is not regarded as a long-funding lease for the purposes of Part 2 of CAA 2001 in accordance with Chapter 6A of that Part (see sections 614BB to 614BE).
  - (3) Chapter 3 makes provision in relation to arrangements involving the lease of assets that are not within Chapter 2, so far as the lease is not so regarded (see sections 614C and 614CB).
  - (4) The remaining provisions of this Chapter explain some expressions about rent for the purposes of this Part.
  - (5) Chapter 4 contains further provisions supplementing this Part, including more about its interpretation.

###### *Meaning of expressions about rent*

#### Normal rent

- 614A(1) For the purposes of this Part, the “normal rent” in respect of a lease for a period of account of the lessor (“L”) is the amount specified in subsection (2).
- (2) That amount is the amount that L would, apart from this Part, bring into account as rent from the lease that arises to L in that period of account for the purpose of determining L's liability to income tax for the related tax year or years.
  - (3) For the meaning of “related tax year”, see section 614DB(4).

#### Accountancy rental earnings

- 614A(1) For the purposes of this Part, the “accountancy rental earnings” in respect of a lease for a period of account of the lessor (“L”) is the greatest of the amounts specified in subsection (2).



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- (2) Those amounts are—
- (a) the rental earnings for that period in respect of the lease in L's case,
  - (b) the rental earnings for that period in respect of the lease in the case of a person connected with L, and
  - (c) the rental earnings for that period in respect of the lease for the purposes of consolidated group accounts of a group of companies of which L is a member.
- (3) For the meaning of “the rental earnings”, see section 614AC.

### **Rental earnings**

- 614A(1) In this Part “the rental earnings” for any period in respect of a lease of an asset in the case of any person or any consolidated group accounts is the amount specified in subsection (2).
- (2) That amount is the amount that falls for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the gross return for that period on investment in respect of a finance lease or loan in respect of the leasing arrangements.
- (3) For the meaning of “for accounting purposes”, see section 614DG.”

3 After section 614AC insert—

## **“CHAPTER 2**

### **FINANCE LEASES WITH RETURN IN CAPITAL FORM**

#### *Introduction*

### **614B Arrangements to which this Chapter applies**

- (1) This Chapter applies to arrangements involving the lease of an asset that meet conditions A and B.
- (2) Condition A is that in accordance with generally accepted accounting practice the arrangements fall to be treated as a finance lease or loan.
- (3) Condition B is that the effect of the arrangements is that some or all of the return on investment in respect of the finance lease or loan—
- (a) is or may be in the form of a sum that is not rent, and
  - (b) would not, apart from this Part and Part 21 of CTA 2010, be wholly brought into account for tax purposes as rent from the lease of the asset.
- (4) It does not matter—
- (a) when the arrangements are or have been entered into, or
  - (b) whether they are or have been entered into by companies or other persons.

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### **614BA Purposes of this Chapter**

- (1) This section sets out the main purposes of this Chapter where there are any arrangements to which this Chapter applies.
- (2) The first main purpose is to charge any person entitled to the lessor's interest under the lease of the asset to income tax on amounts of income determined as mentioned in subsections (3) and (4).
- (3) The amounts referred to in subsection (2) are determined by reference to the amounts that fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the income return on and after 26 November 1996 on investment in respect of the finance lease or loan.
- (4) The amounts referred to in subsection (2) are also determined taking into account the substance of the matter as a whole, including, in particular, the state of affairs—
  - (a) as between connected persons, or
  - (b) within a group of companies,
 as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts.
- (5) The second main purpose of this Chapter is, if the sum mentioned in section 614B(3)(a) that is not rent falls due, to recover by reference to that sum the whole or any part of the capital expenditure reliefs.
- (6) In subsection (5) “the capital expenditure reliefs” means any reliefs, allowances or deductions that are or have been allowed or made in respect of capital expenditure incurred in respect of the leased asset.

*Leases to which this Chapter applies*

### **614BB Application of this Chapter**

- (1) This Chapter applies if—
  - (a) a lease of an asset is or has been granted, and
  - (b) the conditions in section 614BC are or have been met in relation to the lease at some time in a period of account of the current lessor.
- (2) But this Chapter does not apply so far as, in relation to the current lessor, the lease falls to be regarded as a long funding lease for the purposes of Part 2 of CAA 2001 (plant and machinery allowances) in accordance with Chapter 6A of that Part (interpretation of provisions about long funding leases) (see section 70G of that Act).
- (3) If the conditions in section 614BC have been met at some time in a period of account of the person who was at that time the lessor, they are taken to continue to be met for the purposes of this Chapter unless and until one of the conditions in subsection (4) is met.
- (4) The conditions are that—
  - (a) the asset ceases to be leased under the lease, or

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- (b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons specified in subsection (5).
- (5) Those persons are—
  - (a) the assignor,
  - (b) any person who was the lessor at some time before the assignment, and
  - (c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.
- (6) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income, the reference in subsection (3) to the conditions in section 614BC having been met at that time includes a reference to the conditions in section 902 of CTA 2010 having been so met.
- (7) Nothing in subsection (3) prevents this Chapter from applying again in relation to the lease where the lessor's interest is assigned if the conditions for its application are met after the assignment.

#### **614BC The conditions referred to in section 614BB(1)**

- (1) This section sets out the conditions required by section 614BB(1) to be met for this Chapter to apply (conditions A to E).
- (2) Condition A is that at the relevant time—
  - (a) the leasing arrangements fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as a finance lease or a loan, and
  - (b) subsection (3) or (4) applies.
- (3) This subsection applies if the lessor (“L”), or a person connected with L, falls for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the finance lessor in relation to the finance lease or loan.
- (4) This subsection applies if the finance lease or loan falls for accounting purposes to be treated, in accordance with generally accepted accounting practice, as subsisting for the purposes of consolidated group accounts of a group of companies of which L is a member.
- (5) Condition B is that, under the leasing arrangements, there is or may be payable to L, or to a person connected with L, a sum (a “major lump sum”) that is not rent but falls for accounting purposes to be treated, in accordance with generally accepted accounting practice—
  - (a) as to part, as repayment of some or all of the investment in respect of a finance lease or loan, and
  - (b) as to part, as a return on investment in respect of a finance lease or loan.
- (6) Condition C is that not all of that part of the sum that falls within subsection (5)(b) would, apart from this Chapter, fall to be brought into

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account for income tax purposes in tax years ending with the relevant tax year as the normal rent from the lease for periods of account of L.

- (7) Condition D is that, in relation to L at the relevant time—
- (a) the period of account of L in which the relevant time falls, or
  - (b) an earlier period of account of L during which L was the lessor,
- is a period of account for which the accountancy rental earnings in respect of the lease exceed the normal rent for the period.
- (8) Condition E is that at the relevant time—
- (a) arrangements within section 614BE(1) exist, or
  - (b) paragraph (a) does not apply and circumstances within section 614BE(3) exist.
- (9) Section 614BD supplements this section.

#### **614BD Provisions supplementing section 614BC**

- (1) In section 614BC—
- “the relevant tax year”, in relation to a major lump sum, means—
    - (a) the tax year which is related to the period of account of the lessor (“L”) in which the major lump sum is or may be payable in accordance with the leasing arrangements, or
    - (b) if there are two or more such tax years, the latest of them, and
 “the relevant time” means the time as at which it must be determined for the purposes of section 614BB(1) or (3) whether the conditions in section 614BC are or, as the case may be, were met.
- (2) For the meaning of a tax year being related to a period of account, see section 614DB(4).
- (3) Subsection (4) applies for determining the normal rent for a period of account for the purpose of determining whether condition D in section 614BC is met as respects L unless subsection (5) applies.
- (4) Rent that falls to be brought into account for income tax purposes as it falls due is treated—
- (a) as accruing evenly throughout the period to which, in accordance with the terms of the lease, each payment falling due relates, and
  - (b) as falling due as it so accrues.
- (5) This subsection applies if any such payment as is mentioned in subsection (4)
- (a) falls due more than 12 months after the time at which any of the rent to which that payment relates is treated as accruing under subsection (4)(a).

#### **614BE The arrangements and circumstances referred to in section 614BC(8)**

- (1) The arrangements referred to in section 614BC(8)(a) are arrangements under which—
- (a) the lessee or a person connected with the lessee may acquire, whether directly or indirectly, the leased asset or an asset representing the leased asset from the lessor or a person connected with the lessor, and

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- (b) in connection with that acquisition, the lessor or a person connected with the lessor may receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.
- (2) In this section “qualifying lump sum” means any sum that is not rent but at least part of which would fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as a return on investment in respect of a finance lease or loan.
  - (3) The circumstances referred to in section 614BC(8)(b) are circumstances which make it more likely—
    - (a) that the events described in subsection (4) will occur, than
    - (b) that the event described in subsection (5) will occur.
  - (4) The events mentioned in subsection (3)(a) are—
    - (a) that the lessee or a person connected with the lessee will acquire, whether directly or indirectly, the leased asset or an asset representing the leased asset from the lessor or a person connected with the lessor, and
    - (b) that, in connection with that acquisition, the lessor or a person connected with the lessor will receive, whether directly or indirectly, a qualifying lump sum from the lessee or a person connected with the lessee.
  - (5) The event mentioned in subsection (3)(b) is that, before any such acquisition as is mentioned in subsection (4) takes place, the leased asset or, as the case may be, the asset representing the leased asset, will have been acquired, in a sale on the open market, by an independent third party.
  - (6) In subsection (5) “independent third party” means a person who—
    - (a) is not the lessor or the lessee, and
    - (b) is not connected with either of them.
  - (7) For the meaning of an asset representing the leased asset, see section 614DD.

*Current lessor taxed by reference to accountancy rental earnings*

#### **614BF Current lessor taxed by reference to accountancy rental earnings**

- (1) This section applies if, in the case of any period of account of the current lessor (“L”)—
  - (a) this Chapter applies in relation to the lease, and
  - (b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period.
- (2) For income tax purposes, L is treated as if in that period of account L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in subsection (1)(b)).
- (3) Such rent from the lease of an asset is treated for income tax purposes—

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- (a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased, and
- (b) as if L had become entitled to it as it accrued.

*Reduction of taxable rent by cumulative rental excesses*

**614BG Reduction of taxable rent by cumulative rental excesses: introduction**

- (1) This section and sections 614BH to 614BK provide for reductions of the taxable rent of a current lessor (“L”) under a lease to which this Chapter applies.
- (2) In this section and sections 614BH to 614BK “taxable rent”, in relation to a period of account of L, means the amount that would, apart from those sections, be treated for income tax purposes as rent from the lease that arises to L in that period of account for the purpose of determining L's liability to tax for the related tax year or years.
- (3) The reductions of taxable rent under sections 614BH to 614BK depend on there being—
  - (a) a cumulative accountancy rental excess for the period of account of L in question, or
  - (b) a cumulative normal rental excess for the period of account of L in question.
- (4) For the meaning of “cumulative accountancy rental excess” and “cumulative normal rental excess”, see sections 614BH and 614BJ respectively.

**614BH Meaning of “accountancy rental excess” and “cumulative accountancy rental excess”**

- (1) For the purposes of this Chapter, there is an “accountancy rental excess” in relation to the lease for a period of account of the current lessor (“L”) if the taxable rent in relation to the lease for the period is as a result of section 614BF (current lessor taxed by reference to accountancy rental earnings) an amount equal to the accountancy rental earnings.
- (2) The amount of the accountancy rental excess for the period is equal to the difference between the accountancy rental earnings for the period and the normal rent for the period.
- (3) But if the taxable rent for the period is reduced under section 614BK (reduction of taxable rent by the cumulative normal rental excess), there is only an accountancy rental excess for the period if—
  - (a) the accountancy rental earnings, reduced by an amount equal to the reduction under that section, exceed
  - (b) the normal rent.
- (4) And in that case the amount of the accountancy rental excess for the period is equal to that excess.
- (5) In this Chapter the “cumulative accountancy rental excess”, in relation to the lease and a period of account of L, means so much of the total of the accountancy rental excesses for previous periods of account of L (as

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increased under section 614BM: recovery of bad debts following reduction under section 614BL) as has not been—

- (a) set off under section 614BI (reduction of taxable rent by the cumulative accountancy rental excess) against the taxable rent for any such previous period,
- (b) reduced under section 614BL (relief for bad debts: reduction of cumulative accountancy rental excess), or
- (c) set off under section 37A of TCGA 1992 (consideration on disposal of certain leases) against the consideration for a disposal.

### **614BI Reduction of taxable rent by the cumulative accountancy rental excess**

- (1) This section applies if a period of account of the current lessor (“L”) is one for which—
  - (a) the normal rent in relation to the lease exceeds the accountancy rental earnings, and
  - (b) there is a cumulative accountancy rental excess.
- (2) The taxable rent for the period of account is reduced by setting against it the cumulative accountancy rental excess (but not so as to reduce that rent below the amount of the accountancy rental earnings).
- (3) But see section 614BL(3) and (4) (under which the amount of the cumulative accountancy rental excess which may be set against the taxable rent is limited in some circumstances).

### **614BJ Meaning of “normal rental excess” and “cumulative normal rental excess”**

- (1) For the purposes of this Chapter, there is a “normal rental excess” in relation to a lease for any period of account of the current lessor (“L”) throughout which the leasing arrangements fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as a finance lease or loan if—
  - (a) the normal rent for the period, exceeds
  - (b) the accountancy rental earnings for the period.
- (2) The amount of the normal rental excess for that period is equal to that excess.
- (3) But if the taxable rent for the period is reduced under section 614BI (reduction of taxable rent by the cumulative accountancy rental excess), there is only a normal rental excess for the period if—
  - (a) the normal rent, reduced by an amount equal to the reduction under that section, exceeds
  - (b) the accountancy rental earnings.
- (4) And in that case the amount of the normal rental excess for the period is equal to that excess.
- (5) In this Chapter “cumulative normal rental excess”, in relation to the lease and a period of account of L, means so much of the total of the normal rental excesses for previous periods of account of L (as increased

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under section 614BO: recovery of bad debts following reduction under section 614BN) as has not been—

- (a) set off under section 614BK (reduction of taxable rent by the cumulative normal rental excess) against the taxable rent for any such previous period, or
- (b) reduced under section 614BN (relief for bad debts: reduction of cumulative normal rental excess).

#### **614BK Reduction of taxable rent by the cumulative normal rental excess**

- (1) This section applies if a period of account of the current lessor (“L”) is one for which—
  - (a) the taxable rent in relation to the lease is as a result of section 614BF (current lessor taxed by reference to accountancy rental earnings) an amount equal to the accountancy rental earnings, and
  - (b) there is a cumulative normal rental excess.
- (2) The taxable rent for the period of account is reduced by setting against it the cumulative normal rental excess (but not so as to reduce that rent below the amount of the normal rent).
- (3) But see section 614BN(3) and (4) (under which the amount of the cumulative normal rental excess which may be set against the taxable rent is limited in some circumstances).

*Relief for bad debts by reduction of cumulative rental excesses*

#### **614BL Relief for bad debts: reduction of cumulative accountancy rental excess**

- (1) This section applies if in relation to the lease for any period of account of the current lessor—
  - (a) there is a cumulative accountancy rental excess, and
  - (b) a bad debt deduction falls to be made in respect of rent from the lease.
- (2) If for that period—
  - (a) the accountancy rental earnings in relation to the lease exceed the normal rent, and
  - (b) the amount of the bad debt deduction exceeds the amount of the accountancy rental earnings,
 the cumulative accountancy rental excess for that period is reduced by the amount of the excess of that deduction over those earnings (but not so as to reduce the amount of that rental excess below nil).
- (3) Subsections (4) and (5) apply if for that period the accountancy rental earnings in relation to the lease do not exceed the normal rent.
- (4) The amount of the cumulative accountancy rental excess that may be set against the taxable rent for that period under section 614BI(2) (reduction of taxable rent by the cumulative accountancy rental excess) is limited to the amount (if any) by which the normal rent exceeds the bad debt deduction.



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- (5) If for that period the bad debt deduction exceeds the normal rent, the cumulative accountancy rental excess for that period is reduced by the amount of that excess (but not so as to reduce the amount of that rental excess below nil).
- (6) In this section—
- “bad debt deduction”, in relation to a period of account of the lessor, means the total of any sums falling within section 35(1)(a), (b) or (c) of ITTOIA 2005 in respect of amounts in respect of rents from the lease of the asset which are deductible as expenses for that period, and
- “taxable rent” has the meaning given in section 614BG(2).

#### **614BM Recovery of bad debts following reduction under section 614BL**

- (1) This section applies if in relation to the lease—
- (a) the cumulative accountancy rental excess for any period of account of the current lessor (“L”) has been reduced under section 614BL(2) or (5) because of a bad debt deduction,
  - (b) in a subsequent period of account of L, an amount (“the relevant credit”) is recovered or credited in respect of the amount which constituted the bad debt deduction, and
  - (c) there is a cumulative accountancy rental excess for that subsequent period.
- (2) The cumulative accountancy rental excess for the subsequent period is increased.
- (3) If the relevant credit does not exceed the total of the reductions under section 614BL(2) or (5), the increase is by the relevant credit.
- (4) Otherwise, the increase is limited to that total.
- (5) In this section “bad debt deduction” has the meaning given in section 614BL(6).

#### **614BN Relief for bad debts: reduction of cumulative normal rental excess**

- (1) This section applies if in relation to the lease for any period of account of the current lessor—
- (a) there is a cumulative normal rental excess, and
  - (b) a bad debt deduction falls to be made in respect of rent from the lease.
- (2) If for that period—
- (a) the accountancy rental earnings in the case of the lease do not exceed the normal rent, and
  - (b) the amount of the bad debt deduction exceeds the amount of that rent,
- the cumulative normal rental excess for that period is reduced by the amount of the excess of that deduction over that rent (but not so as to reduce the amount of that rental excess below nil).

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- (3) Subsections (4) and (5) apply if for that period the accountancy rental earnings in relation to the lease exceed the normal rent.
- (4) The amount of the cumulative normal rental excess that may be set against the taxable rent for that period under section 614BK (reduction of taxable rent by the cumulative normal rental excess) is limited to the amount (if any) by which the accountancy rental earnings exceed the bad debt deduction.
- (5) If for that period the bad debt deduction exceeds the accountancy rental earnings, the cumulative normal rental excess for that period is reduced by the amount of the excess (but not so as to reduce the amount of that rental excess below nil).
- (6) In this section, in relation to a period of account of the lessor—
  - “bad debt deduction” has the meaning given in section 614BL(6),
  - and
  - “taxable rent” has the meaning given in section 614BG(2).

#### **614BO Recovery of bad debts following reduction under section 614BN**

- (1) This section applies if in relation to the lease—
  - (a) the cumulative normal rental excess for any period of account of the current lessor (“L”) has been reduced under section 614BN(2) or (5) as a result of a bad debt deduction,
  - (b) in a subsequent period of account of L, an amount (“the relevant credit”) is recovered or credited in respect of the amount which constituted the bad debt deduction, and
  - (c) there is a cumulative normal rental excess for that subsequent period.
- (2) The cumulative normal rental excess for the subsequent period is increased.
- (3) If the relevant credit does not exceed the total of the reductions under section 614BN(2) or (5), the increase is by the relevant credit.
- (4) Otherwise, the increase is limited to that total.
- (5) In this section “bad debt deduction” has the meaning given in section 614BL(6).

#### *Effect of disposals*

#### **614BP Effect of disposals of leases: general**

- (1) This section applies if the current lessor (“L”) or a person connected with L disposes of—
  - (a) the lessor's interest under the lease,
  - (b) the leased asset, or
  - (c) an asset representing the leased asset (see section 614DD).
- (2) This Part has effect as if immediately before the disposal a period of account of L ended and another began.
- (3) If—

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- (a) two or more disposals within subsection (1) are made at the same time, and
  - (b) there is any cumulative accountancy rental excess for any period of account of L in which the disposal occurs,
- subsection (2) has effect in relation to those disposals as if they together constituted a single disposal.
- (4) In this section “dispose” and “disposal” are to be read in accordance with TCGA 1992.
  - (5) In cases where there is any cumulative accountancy rental excess for L's period of account in which the disposal occurs, section 37A of that Act (consideration on disposal of certain leases) makes provision for the purposes of that Act about the reduction of the consideration for the disposal by that excess in determining if a gain has accrued.

#### **614BQ Assignments on which neither a gain nor a loss accrues**

- (1) This section applies if—
  - (a) the current lessor (“L”) assigns the lessor's interest under the lease, and
  - (b) the assignment is a disposal on which, as a result of any of the no gain/no loss provisions, neither a gain nor a loss accrues.
- (2) This Part has effect as if—
  - (a) a period of account of L (“L's period”) ended with the assignment, and
  - (b) a period of account of the assignee (“A's period”) began with the assignment.
- (3) Any cumulative accountancy rental excess for L's period becomes the cumulative accountancy rental excess for A's period.
- (4) Any cumulative normal rental excess for L's period becomes the cumulative normal rental excess for A's period.
- (5) If the assignee is a company subject to the charge to corporation tax on income, so far as this section relates to the assignee, it applies for the purposes of Part 21 of CTA 2010 as it would otherwise apply for the purposes of this Part.
- (6) In this section “the no gain/no loss provisions” has the same meaning as in TCGA 1992 (see section 288(3A) of that Act).

*Capital allowances: claw-back of major lump sum*

#### **614BR Effect of capital allowances: introduction**

- (1) This section and sections 614BS to 614BW apply if an occasion occurs on which a major lump sum falls to be paid in relation to the lease of the asset.
- (2) In those sections the occasion is called “the relevant occasion”.

*Status: Point in time view as at 01/01/2016.*

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### **614BS Cases where expenditure taken into account under Part 2, 5 or 8 of CAA 2001**

- (1) This section applies if capital expenditure incurred by the current lessor (“L”) in respect of the leased asset is or has been taken into account for the purposes of any allowance or charge under—
  - (a) Part 2 of CAA 2001 (plant and machinery allowances),
  - (b) Part 5 of that Act (mineral extraction allowances), or
  - (c) Part 8 of that Act (patent allowances).
- (2) The Part of that Act in question (“the relevant Part”) has effect as if the relevant occasion were an event (“the relevant event”) as a result of which a disposal value is to be brought into account of an amount equal to the amount or value of the major lump sum (but subject to any applicable limiting provision).
- (3) In this section “limiting provision” means a provision to the effect that the disposal value of the asset in question is not to exceed an amount (“the limit”) described by reference to capital expenditure incurred in respect of the asset.
- (4) Subsection (5) applies if—
  - (a) as a result of subsection (2), a disposal value (“the relevant disposal value”) falls or has fallen to be brought into account by a person in respect of the leased asset for the purposes of the relevant Part, and
  - (b) a limiting provision has effect in the case of that Part.
- (5) The limiting provision has effect (so far as it would not otherwise do so), in relation to the relevant disposal value and any simultaneous or later disposal value, as if—
  - (a) it did not limit any particular disposal value, but
  - (b) it limited the total amount of all the disposal values brought into account for the purposes of the relevant Part by L in respect of the leased asset.
- (6) In subsection (5) “simultaneous or later disposal value” means any disposal value which falls to be brought into account by L in respect of the leased asset as a result of any event occurring at the same time as, or later than, the relevant event.

### **614BT Cases where expenditure taken into account under other provisions of CAA 2001**

- (1) This section applies if any allowance is or has been given in respect of capital expenditure incurred by the current lessor (“L”) in respect of the leased asset under any provision of CAA 2001 other than—
  - (a) Part 2 of CAA 2001 (plant and machinery allowances),
  - (b) Part 5 of that Act (mineral extraction allowances), or
  - (c) Part 8 of that Act (patent allowances).
- (2) The amount specified in subsection (3) is treated, in relation to L, as if it were a balancing charge to be made on L for the chargeable period in which the relevant occasion falls.

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- (3) That amount is an amount equal to—
  - (a) the total of the allowances given as mentioned in subsection (1) (so far as not previously recovered or withdrawn), or
  - (b) if it is less, the amount or value of the major lump sum.
- (4) In this section “chargeable period” has the meaning given by section 6 of CAA 2001.

#### **614BU Capital allowances deductions: waste disposal and cemeteries**

- (1) This section applies if any deduction is or has been allowed to the current lessor (“L”) in respect of capital expenditure incurred in connection with the leased asset as a result of—
  - (a) section 165 or 168 of ITTOIA 2005 (preparation and restoration expenditure in relation to waste disposal site), or
  - (b) section 170 of that Act (cemeteries and crematoria: deduction for capital expenditure).
- (2) L is treated as if trading receipts arose to L from the trade in question on the relevant occasion.
- (3) The amount of those receipts is equal to the lesser of—
  - (a) the amount or value of the major lump sum, and
  - (b) the deductions previously allowed.

#### **614BV Capital allowances deductions: films and sound recordings**

- (1) This section applies if—
  - (a) any relevant deduction has been allowed to the current lessor (“L”) in respect of expenditure incurred in connection with the leased asset, and
  - (b) the amount or value of the major lump sum exceeds so much of that sum as was treated as receipts of a revenue nature under section 134(2) of ITTOIA 2005 (disposal proceeds of original master version of film or sound recording treated as receipt of a revenue nature).
- (2) In subsection (1) “relevant deduction” means any deduction as a result of—
  - (a) section 135 of ITTOIA 2005 (allocation of expenditure on master versions of films or sound recordings to periods), or
  - (b) section 138, 138A, 139 or 140 of that Act (relief for production or acquisition expenditure in respect of films).
- (3) L is treated as if receipts of a revenue nature arose to L from the trade or business in question on the relevant occasion.
- (4) The amount of those receipts is equal to the excess mentioned in subsection (1)(b).

#### **614BW Contributors to capital expenditure**

- (1) This section applies if—

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- (a) section 614BS or 614BT applies in relation to a leased asset,
  - (b) allowances are or have been made to a person (“the contributor”) as a result of sections 537 to 542 of CAA 2001 (allowances in respect of contributions to capital expenditure), and
  - (c) those allowances are or were in respect of the contributor's contribution of a capital sum to expenditure on the provision of the leased asset.
- (2) Section 614BS or, as the case may be, section 614BT has effect in relation to the contributor and those allowances as it has effect in relation to the current lessor and allowances in respect of capital expenditure incurred by the current lessor in respect of the leased asset.

*Schemes to which this Chapter does not at first apply*

**614BX Pre-26 November 1996 schemes where this Chapter does not at first apply**

- (1) This section applies if—
- (a) the lease of an asset forms part of a pre-26 November 1996 scheme, but
  - (b) the conditions in section 614BC become met after 26 November 1996.
- (2) For the meaning of “forming part of a pre-26 November 1996 scheme”, see section 614D.
- (3) This Part has effect as if—
- (a) a period of account (“period 1”) of the current lessor (“L”) ended immediately before the time at which those conditions become met,
  - (b) another period of account of L (“period 2”) began immediately before that time and ended immediately after that time, and
  - (c) another period of account of L began immediately after that time.
- (4) If, on the continuous application assumption (see subsection (9)), there would be an amount of cumulative accountancy rental excess for period 2, that amount is the cumulative accountancy rental excess for period 2.
- (5) If subsection (4) applies, L is treated for income tax purposes as if in period 1 L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to that cumulative accountancy rental excess.
- (6) The amount of rent mentioned in subsection (5)—
- (a) is in addition to any other rent from the lease for period 1, and
  - (b) is left out of account for the purposes of section 614BF (current lessor taxed by reference to accountancy rental earnings).
- (7) Rent within subsection (5) is treated for income tax purposes as if it had accrued and L had become entitled to it immediately before the end of period 1.

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- (8) If, on the continuous application assumption, there would be an amount of cumulative normal rental excess for period 2, that amount is the cumulative normal rental excess for period 2.
- (9) In this section “the continuous application assumption” means the assumption that this Chapter (other than this section) had applied in the case of the lease at all times on or after 26 November 1996.
- (10) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income, the reference in subsection (9) to this Chapter (other than this section) includes a reference to Chapter 2 of Part 21 of CTA 2010 (other than section 923 of that Act).

#### **614BY Post-25 November 1996 schemes to which Chapter 3 applied first**

- (1) This section applies if—
  - (a) the conditions in section 614BC become met in the case of the lease of the asset, and
  - (b) immediately before those conditions become met, Chapter 3 applied.
- (2) Subsection (3) applies for the purpose of determining—
  - (a) the cumulative accountancy rental excess for any period of account ending after those conditions become met, or
  - (b) the cumulative normal rental excess for any such period.
- (3) This Part has effect as if this Chapter had applied in relation to the lease at any time when Chapter 3 applied in relation to it.
- (4) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income—
  - (a) the reference in subsection (1)(a) to the conditions in section 614BC becoming met at that time includes a reference to the conditions in section 902 of CTA 2010 becoming so met,
  - (b) the reference in subsection (1)(b) to Chapter 3 applying immediately before that time includes a reference to Chapter 3 of Part 21 of that Act so applying, and
  - (c) the reference in subsection (3) to Chapter 3 applying at that time includes a reference to Chapter 3 of that Part so applying.”

4 After section 614BY insert—

### **“CHAPTER 3**

#### **OTHER FINANCE LEASES**

##### *Introduction*

#### **614C Introduction to Chapter**

- (1) This Chapter applies to arrangements involving the lease of an asset that—

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- (a) fall to be treated, in accordance with generally accepted accounting practice, as a finance lease or loan, but
  - (b) are not arrangements to which Chapter 2 applies.
- (2) It does not matter whether the arrangements are or have been entered into by companies or other persons.

#### **614CA Purpose of this Chapter**

- (1) The main purpose of this Chapter where there are arrangements to which this Chapter applies is to charge a person entitled to the lessor's interest under the lease of the asset to income tax on amounts of income determined as mentioned in subsection (2).
- (2) The amounts referred to in subsection (1) are determined by reference to the amounts that fall for accounting purposes to be treated, in accordance with generally accepted accounting practice, as the income return on and after 26 November 1996 on investment in respect of the finance lease or loan.
- (3) The amounts referred to in subsection (1) are also determined taking into account the substance of the matter as a whole, including, in particular, the state of affairs—
  - (a) as between connected persons, or
  - (b) within a group of companies,
 as reflected or falling to be reflected in accounts of any of those persons or in consolidated group accounts.

*Leases to which this Chapter applies*

#### **614CB Leases to which this Chapter applies**

- (1) This Chapter applies if—
  - (a) a lease of an asset is or has been granted on or after 26 November 1996,
  - (b) the lease forms part of a post-25 November 1996 scheme,
  - (c) condition A in section 614BC is or has been met at some time on or after 26 November 1996 in relation to the lease in a period of account of the current lessor (“L”), and
  - (d) Chapter 2 does not apply in relation to the lease because of the other conditions in that section not all being, or having been, met as mentioned in section 614BB.
- (2) For the meaning of “forming part of a post-25 November 1996 scheme”, see section 614D.
- (3) This Chapter does not apply so far as, in relation to L, the lease falls to be regarded as a long funding lease for the purposes of Part 2 of CAA 2001 (plant and machinery allowances) in accordance with Chapter 6A of that Part (interpretation of provisions about long funding leases) (see section 70G of that Act).
- (4) If condition A in section 614BC has been met at any time on or after 26 November 1996 in a period of account of the person who was at that time the



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lessor, it is taken to continue to be met unless and until one of the conditions in subsection (5) is met.

- (5) The conditions are that—
  - (a) the asset ceases to be leased under the lease, or
  - (b) the lessor's interest under the lease is assigned to a person who is not connected with any of the persons specified in subsection (6).
- (6) Those persons are—
  - (a) the assignor,
  - (b) any person who was the lessor at some time before the assignment, and
  - (c) any person who at some time after the assignment becomes the lessor pursuant to arrangements made by a person who was the lessor, or was connected with the lessor, at some time before the assignment.
- (7) If at any time the person who was the lessor at that time was a person within the charge to corporation tax on income—
  - (a) the reference in subsection (4) to condition A in section 614BC having been met at that time includes a reference to condition A in section 902 of CTA 2010 having been so met, and
  - (b) the reference in subsection (1)(d) to the other conditions in section 614BC not having been met as mentioned in section 614BB includes a reference to the other conditions in section 902 of that Act not having been met as mentioned in section 901 of that Act.
- (8) Nothing in subsection (4) prevents this Chapter from applying again in relation to the lease where the lessor's interest is assigned if the conditions for its application are met after the assignment.

*Current lessor taxed by reference to accountancy rental earnings*

#### **614CC Current lessor taxed by reference to accountancy rental earnings**

- (1) This section applies if, in the case of any period of account of the current lessor (“L”)—
  - (a) this Chapter applies in relation to the lease, and
  - (b) the accountancy rental earnings in respect of the lease for that period of account exceed the normal rent for that period.
- (2) For income tax purposes, L is treated as if in that period of account L had been entitled to, and there had arisen to L, rent from the lease of an amount equal to those accountancy rental earnings (instead of the normal rent referred to in subsection (1)(b)).
- (3) Such rent from the lease of an asset is treated for income tax purposes—
  - (a) as if it had accrued at an even rate throughout so much of the period of account as falls within the period for which the asset is leased, and
  - (b) as if L had become entitled to it as it accrued.

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*Application of provisions of Chapter 2 for purposes of this Chapter*

**614CD Application of provisions of Chapter 2 for purposes of this Chapter**

Sections 614BG to 614BQ apply for the purposes of this Chapter as they apply for the purposes of Chapter 2, but taking the references in sections 614BH(1) and 614BK(1)(a) to section 614BF as references to section 614CC.”

5 After section 614CD insert—

**“CHAPTER 4**

SUPPLEMENTARY PROVISIONS

**614D Pre-26 November 1996 schemes and post-25 November 1996 schemes**

- (1) For the purposes of this Part, a lease of an asset—
  - (a) forms part of a pre-26 November 1996 scheme if (and only if) the conditions in subsection (2) or (3) are met, and
  - (b) in any other case, forms part of a post-25 November 1996 scheme.
- (2) The conditions in this subsection are that—
  - (a) a contract in writing for the lease of the asset was made before 26 November 1996,
  - (b) either—
    - (i) the contract was unconditional, or
    - (ii) if the contract was conditional, the conditions were met before that date, and
  - (c) no terms remain to be agreed on or after that date.
- (3) The conditions in this subsection are that—
  - (a) a contract in writing for the lease of the asset was made before 26 November 1996,
  - (b) the condition in subsection (2)(b) or (c) was not met in the case of the contract,
  - (c) either—
    - (i) the contract was unconditional, or
    - (ii) if the contract was conditional, the conditions were met before the end of the finalisation period or within such further period as the Commissioners for Her Majesty's Revenue and Customs may allow in the particular case,
  - (d) no terms remain to be agreed after the end of the finalisation period or such further period as those Commissioners may so allow, and
  - (e) the contract in its final form was not materially different from the contract as it stood when it was made before 26 November 1996.
- (4) In subsection (3) “the finalisation period” means the period which ended with the later of—

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- (a) 31 January 1997, and
- (b) the end of the period of six months beginning with the day after that on which the contract was made as mentioned in subsection (3)(a).

#### **614DA Time apportionment where periods of account do not coincide**

- (1) Subsection (2) applies if a period of account of the lessor (“L”) does not coincide with a period of account of a person connected with L.
- (2) Any amount which falls for the purposes of this Part to be found for L's period of account but by reference to the connected person is found by making such apportionments as may be necessary between two or more periods of account of the connected person.
- (3) Subsection (4) applies if a period of account of L does not coincide with a period for which consolidated group accounts of a group of companies of which L is a member fall to be prepared.
- (4) Any amount which falls for the purposes of this Part to be found for L's period of account but by reference to the consolidated group accounts is found by making such apportionments as may be necessary between two or more periods for which consolidated group accounts of the group fall to be prepared.
- (5) Any apportionment under subsection (2) or (4) must be made in proportion to the number of days in the respective periods that fall within L's period of account.

#### **614DB Periods of account and related periods of account and tax years**

- (1) In this Part “period of account” means a period for which accounts are made up.
- (2) Except for the purposes of sections 614BB to 614BE and subsection (3), in this Part “period of account” does not include a period that begins before 26 November 1996.
- (3) But this Part applies in relation to a period of account that begins before 26 November 1996 and ends on or after that date as if—
  - (a) so much of the period as falls before that date, and
  - (b) so much of the period as falls on or after that date,were separate periods of account.
- (4) For the purposes of this Part, a tax year is related to a period of account if the tax year consists of or includes the whole or any part of the period of account.
- (5) For the purposes of this Part a period of account is related to a tax year if the tax year is related to the period of account.

#### **614DC Connected persons**

- (1) For the purposes of this Part in its application as a result of any leasing arrangements, if a person (“A”) is connected with another (“B”) at some time during the relevant period A is treated as being connected with B throughout that period.

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- (2) The relevant period is the period that—
- (a) begins at the earliest time at which any of the arrangements were made, and
  - (b) ends when the current lessor finally ceases to have an interest in the asset or any arrangements relating to it.

#### **614DD Assets which represent the leased asset**

- (1) For the purposes of this Part, the assets described in subsection (2) are treated as representing the leased asset.
- (2) Those assets are—
  - (a) any asset derived from the leased asset or created out of it,
  - (b) any asset from which the leased asset was derived or out of which the leased asset was created,
  - (c) any asset derived from or created out of an asset within paragraph (b), and
  - (d) any asset that derives the whole or a substantial part of its value from the leased asset or an asset that itself represents the leased asset.

#### **614DE Parent undertakings and consolidated group accounts**

- (1) This Part has effect in relation to a body corporate that—
  - (a) is a parent undertaking, but
  - (b) for accounting purposes is not required to prepare consolidated group accounts in accordance with generally accepted accounting practice,
 as if it were so required.
- (2) For the purposes of subsection (1) it does not matter where the body corporate is incorporated.
- (3) In subsection (1) “parent undertaking” is to be read in accordance with section 1162 of the Companies Act 2006.

#### **614DF Assessments and adjustments**

All such assessments and adjustments must be made as are necessary to give effect to this Part.

#### **614DG Interpretation**

In this Part, unless the context otherwise requires—

“accountancy rental earnings” has the meaning given by section 614AB(1),

“accountancy rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BH(1) to (4), and
- (b) for the purposes of Chapter 3, in accordance with section 614BH(1) to (4) as it has effect as a result of section 614CD,

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“asset” means any form of property or rights,

“asset representing the leased asset” is to be read in accordance with section 614DD,

“cumulative accountancy rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BH(5), and
- (b) for the purposes of Chapter 3, in accordance with section 614BH(5) as it has effect as a result of section 614CD,

“cumulative normal rental excess” is to be read—

- (a) for the purposes of Chapter 2, in accordance with section 614BJ(5), and
- (b) for the purposes of Chapter 3, in accordance with section 614BJ(5) as it has effect as a result of section 614CD,

“the current lessor”, in relation to a lease of an asset, means the person who is for the time being entitled to the lessor's interest under the lease,

“finance lessor” means a person who for accounting purposes is treated, in accordance with generally accepted accounting practice, as the person with—

- (a) the grantor's interest in relation to a finance lease, or
- (b) the lender's interest in relation to a loan,

“for accounting purposes” means for the purposes of—

- (a) accounts of companies incorporated in any part of the United Kingdom, or
- (b) consolidated group accounts for groups all the members of which are companies so incorporated,

“lease”—

- (a) in relation to land, includes an underlease, sublease, tenancy or licence, and any agreement for a lease, underlease, sublease, tenancy or licence and, in the case of land outside the United Kingdom, any interest corresponding to a lease as so defined, and
- (b) in relation to any form of property or right other than land, means any kind of agreement or arrangement under which payments are made for the use of, or otherwise in respect of, an asset,

and “rent” is to be read accordingly,

“the leasing arrangements”, in relation to a lease of an asset, means—

- (a) the lease,
- (b) any arrangements relating to or connected with the lease, and
- (c) any other arrangements of which the lease forms part,

and includes a reference to any of the leasing arrangements,

“the lessee”, in relation to a lease of an asset, means (except in the expression “the lessee's interest under the lease”) the person entitled to the lessee's interest under the lease,

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“the lessor”, in relation to a lease of an asset, means (except in the expression “the lessor's interest under the lease”) the person entitled to the lessor's interest under the lease,

“major lump sum” is to be read in accordance with section 614BC(5),

“normal rent” is to be read in accordance with section 614AA,

“normal rental excess” is to be read—

(a) for the purposes of Chapter 2, in accordance with section 614BJ(1) to (4), and

(b) for the purposes of Chapter 3, in accordance with section 614BJ(1) to (4) as it has effect as a result of section 614CD,

“period of account” is to be read in accordance with section 614DB(1) to (3),

“post-25 November 1996 scheme” is to be read in accordance with section 614D(1)(b),

“pre-26 November 1996 scheme” is to be read in accordance with section 614D(1)(a),

“related period of account” is to be read in accordance with section 614DB(5),

“related tax year” is to be read in accordance with section 614DB(4),

“the rental earnings”, in relation to a lease of an asset and any period, has the meaning given by section 614AC, and

“sum” includes any money or money's worth (and “pay” and related expressions are to be read accordingly).”

## PART 2

### NEW SECTION 37A OF TCGA 1992

6 TCGA 1992 is amended as follows.

7 After section 37 insert—

#### “37A Consideration on disposal of certain leases

(1) This section applies if—

(a) a disposal occurs that is within section 614BP of ITA 2007 (including that section as it has effect as a result of section 614CD of that Act), and

(b) for the purposes of Chapter 2 or 3 of Part 11A of that Act there is any cumulative accountancy rental excess in relation to the lease for the period of account of the current lessor in which the disposal takes place.

(2) This section also applies if—

(a) a disposal occurs that is within section 915 of CTA 2010 (including that section as it has effect as a result of section 929 of that Act), and

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- (b) for the purposes of Chapter 2 or 3 of Part 21 of that Act there is any cumulative accountancy rental excess in relation to the lease for the period of account of the current lessor in which the disposal takes place.
- (3) In determining for the purposes of this Act the amount of any gain accruing to the person making the disposal, the consideration for the disposal is treated as reduced by setting against it that excess (but not so as to reduce the amount of that consideration below nil).
- (4) Subsection (3) only affects section 37 so far as subsection (5) provides.
- (5) Section 37 does not exclude any money or money's worth from the consideration for a disposal so far as it is represented by any such cumulative accountancy rental excess that, in accordance with subsection (3)—
  - (a) falls to be set against the consideration for the disposal, or
  - (b) has fallen to be set against the consideration for a previous disposal made by the person making the disposal in question or a person connected with that person.
- (6) Subsections (7) to (9) apply if the disposal mentioned in subsection (1) or (2) is a part disposal of the asset in question.
- (7) The cumulative accountancy rental excess mentioned in subsection (3) must be apportioned between—
  - (a) the property disposed of, and
  - (b) the property that remains undisposed of.
- (8) That apportionment must be made in the same proportions as those in which the sums that under section 38(1)(a) or (b) are attributable to the asset fall to be apportioned under section 42.
- (9) Only so much of the cumulative accountancy rental excess as is so apportioned to the property disposed of is set against the consideration for the part disposal in accordance with subsection (3).
- (10) If subsection (3) applies in a case where two or more disposals within subsection (1) or (2) are made at the same time, the cumulative accountancy rental excess mentioned in subsection (3) must be apportioned, subject to subsections (7) to (9), between the disposals in such proportions as are just and reasonable.
- (11) Section 614DC of ITA 2007 (connected persons) applies for the purposes of this section in its application as a result of any leasing arrangements (within the meaning of that section) as it applies for the purposes mentioned in that section.”

#### SCHEDULE 4

Section 368

##### SALE AND LEASE-BACK ETC: NEW PART 12A OF ITA 2007

- 1 ITA 2007 is amended as follows.
- 2 After section 681 insert—

*Status: Point in time view as at 01/01/2016.*

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## “PART 12A

### SALE AND LEASE-BACK ETC

#### CHAPTER 1

##### PAYMENTS CONNECTED WITH TRANSFERRED LAND

###### *Overview*

#### **681A Overview**

This Chapter provides that in certain circumstances where a transfer is made regarding land, and the transferor or an associate becomes liable to make a payment connected with the land, income tax relief for the payment is restricted.

###### *Application of the Chapter*

#### **681AA Transferor or associate becomes liable for payment of rent**

- (1) Section 681AD has effect if—
  - (a) land, or an estate or interest in land, is transferred,
  - (b) the transferor, or a person associated with the transferor, becomes liable to make a payment of rent under a lease of the land or part of it, and
  - (c) a deduction by way of relevant income tax relief (see section 681AC) is allowed for the payment.
- (2) Section 681AE has effect if—
  - (a) land, or an estate or interest in land, is transferred,
  - (b) the transferor, or a person associated with the transferor, becomes liable to make a payment of rent under a lease of the land or part of it, and
  - (c) a relevant deduction from earnings (see section 681AC) is allowed for the payment.
- (3) The reference in subsection (1)(a) or (2)(a) to a transfer of an estate or interest in land includes a reference to any of the following—
  - (a) the granting of a lease or another transaction involving the creation of a new estate or interest in the land,
  - (b) the transfer of the lessee's interest under a lease by surrender or forfeiture of the lease, and
  - (c) a transaction or series of transactions affecting land or an estate or interest in land, such that some person is the owner or one of the owners before and after the transaction or transactions but another person becomes or ceases to be one of the owners.



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- (4) In relation to a transaction or series of transactions mentioned in subsection (3)(c), a person is to be regarded as a transferor for the purposes of this Chapter if the person—
  - (a) is an owner before the transaction or transactions, and
  - (b) is not the sole owner afterwards.
- (5) The liability mentioned in subsection (1)(b) or (2)(b) is one resulting from—
  - (a) a lease, of the land or part of it, granted (at the time of the transfer or later) by the transferee to the transferor, or
  - (b) another transaction or series of transactions affecting the land or an estate or interest in it.
- (6) The liability mentioned in subsection (1)(b) or (2)(b) is one arising at the time of the transfer or later.
- (7) The reference in subsection (1)(a) or (2)(a) to a transfer does not include a transfer on or before 14 April 1964.

#### **681AB Transferor or associate becomes liable for payment other than rent**

- (1) Section 681AD has effect if—
  - (a) land, or an estate or interest in land, is transferred,
  - (b) the transferor, or a person associated with the transferor, becomes liable to make a payment which is not rent under a lease but is otherwise connected with the land or part of it (whether it is a payment under a rentcharge or under some other transaction), and
  - (c) a deduction by way of relevant income tax relief (see section 681AC) is allowed for the payment.
- (2) Section 681AE has effect if—
  - (a) land, or an estate or interest in land, is transferred,
  - (b) the transferor, or a person associated with the transferor, becomes liable to make a payment which is not rent under a lease but is otherwise connected with the land or part of it (whether it is a payment under a rentcharge or under some other transaction), and
  - (c) a relevant deduction from earnings (see section 681AC) is allowed for the payment.
- (3) The reference in subsection (1)(a) or (2)(a) to a transfer of an estate or interest in land includes a reference to any of the following—
  - (a) the granting of a lease or another transaction involving the creation of a new estate or interest in the land,
  - (b) the transfer of the lessee's interest under a lease by surrender or forfeiture of the lease, and
  - (c) a transaction or series of transactions affecting land or an estate or interest in land, such that some person is the owner or one of the owners before and after the transaction or transactions but another person becomes or ceases to be one of the owners.
- (4) In relation to a transaction or series of transactions mentioned in subsection (3)(c), a person is to be regarded as a transferor for the purposes of this Chapter if the person—

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- (a) is an owner before the transaction or transactions, and
  - (b) is not the sole owner afterwards.
- (5) The liability mentioned in subsection (1)(b) or (2)(b) is one resulting from a transaction or series of transactions affecting the land or an estate or interest in it.
- (6) The liability mentioned in subsection (1)(b) or (2)(b) is one arising at the time of the transfer or later.
- (7) The reference in subsection (1)(a) or (2)(a) to a transfer does not include a transfer on or before 14 April 1964.

### **681AC Relevant income tax relief and relevant deduction from earnings**

- (1) For the purposes of this Chapter each of the following is a deduction by way of relevant income tax relief—
- (a) a deduction in calculating profits or losses of a trade, profession or vocation for income tax purposes,
  - (b) a deduction in calculating the profits of a UK property business for income tax purposes, and
  - (c) a deduction in calculating any loss for which relief is given under section 152 (losses from miscellaneous transactions), or in calculating profits or other income or gains chargeable to income tax under or by virtue of any provision to which section 1016 applies.
- (2) For the purposes of this Chapter each of the following is a relevant deduction from earnings—
- (a) a deduction under section 336 of ITEPA 2003 (expenses), and
  - (b) a deduction from earnings in calculating losses in an employment for income tax purposes.

*Relief: restriction and carrying forward*

### **681AD Relevant income tax relief: deduction not to exceed commercial rent**

- (1) The rules in subsection (3) apply to the calculation of the deduction by way of relevant income tax relief allowed in a relevant period—
- (a) for the non-excluded element of the payment within section 681AA(1) or 681AB(1), or
  - (b) if there are two or more such payments, for the non-excluded elements of those payments.
- (2) For the purposes of this section—
- (a) in relation to a deduction within section 681AC(1)(a) “relevant period” means—
    - (i) a period of account of the trade, profession or vocation concerned, or
    - (ii) if no accounts of the trade, profession or vocation are drawn up for a period, the basis period of a tax year,
  - (b) in relation to a deduction within section 681AC(1)(b) or (c) “relevant period” means—

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- (i) a period of account of the business or person concerned, or
  - (ii) if no accounts of the business are drawn up for a period or the person does not draw up accounts for a period, a tax year, and
  - (c) the non-excluded element of a payment is the element of the payment not excluded under section 681AI (service charges etc).
- (3) The rules are—
- Rule 1 — meaning of amount E* For any relevant period, amount E (which may be nil) is the expense or total expenses to be brought, in accordance with generally accepted accounting practice, into account in the period in respect of—
- (a) the non-excluded element of the payment, or
  - (b) the non-excluded elements of the payments.
- Rule 2 — calculations* For every relevant period—
- (a) calculate the total of amount E for the period and amount E for every previous relevant period ending on or after the date of the transfer mentioned in section 681AA(1)(a) or 681AB(1)(a),
  - (b) calculate the total of the deductions by way of relevant income tax relief for every previous relevant period ending on or after the date of that transfer, and
  - (c) subtract the total at (b) from the total at (a) to give the cumulative unrelieved expenses for the period.
- Rule 3 — meaning of post-spread period* A relevant period is a post-spread period if for that relevant period, and every later relevant period, there are no payments within section 681AA(1) or 681AB(1).
- Rule 4 — the deduction allowed in a relevant period* If a relevant period is not a post-spread period, the deduction allowed for the period is equal to the cumulative unrelieved expenses for the period, but is the commercial rent for the period if that is less (see section 681AJ or 681AK).
- Rule 5 — relevant periods in which no deduction allowed* If a relevant period is a post-spread period, no deduction is allowed for the period.

*Certain deductions from earnings: restriction and carrying forward of relief*

#### **681AE Deduction from earnings not to exceed commercial rent**

- (1) Subsection (3) applies to the calculation of the relevant deduction from earnings allowed for the non-excluded element of the payment within section 681AA(2) or 681AB(2).
- (2) For the purposes of this section the non-excluded element of a payment is the element of the payment not excluded under section 681AI (service charges etc).
- (3) The deduction must not exceed the commercial rent for the period for which the payment is made (see section 681AJ or 681AK).

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### **681AF Carrying forward parts of payments**

- (1) This section applies if—
  - (a) section 681AE has effect, and
  - (b) conditions A and B are met.
- (2) Condition A is that under section 681AE part of a payment which would otherwise be allowed as a relevant deduction from earnings is not allowed.
- (3) Condition B is that one or more later payments are made, by the transferor or a person associated with the transferor, under—
  - (a) the lease (if section 681AE has effect because of section 681AA(2)),  
or
  - (b) the rentcharge or other transaction mentioned in section 681AB(2)  
(b) (if section 681AE has effect because of section 681AB(2)).
- (4) The part of the payment mentioned in subsection (2) may be carried forward and treated for the purposes of a relevant deduction from earnings as if it were made—
  - (a) when the next of the later payments is made, and
  - (b) for the period for which that later payment is made.
- (5) So far as a part of a payment carried forward under this section is not allowed as a relevant deduction from earnings, it may be carried forward again under this section.

### **681AG Aggregation and apportionment of payments**

- (1) This section applies for the purposes of section 681AE.
- (2) If more than one payment is made for the same period, the payments must be taken together.
- (3) If payments are made for periods which overlap—
  - (a) the payments must be apportioned, and
  - (b) the apportioned payments which belong to the common part of the overlapping periods must be taken together.
- (4) References in subsections (2) and (3) to payments include references to parts of payments which under section 681AF are treated as if made later than they were made.

### **681AH Payments made for later periods**

- (1) This section applies for the purposes of sections 681AE to 681AG.
- (2) For the purposes of this section the relevant year, in relation to a payment, is the year which begins with the date it is made.
- (3) If a payment is made for a period all of which is after the relevant year, it must be treated as made for the relevant year.

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- (4) If a payment is made for a period part of which is after the relevant year, it must be treated as if a corresponding part of it was made for the relevant year (and no part for a later period).

#### *Interpretation etc*

#### **681AI Exclusion of service charges etc**

- (1) This section applies for the purposes of sections 681AD and 681AE.
- (2) A payment must be excluded so far as it is in respect of any of the following—
  - (a) services,
  - (b) the use of relevant assets, and
  - (c) rates usually borne by the tenant.
- (3) The amount excluded must be just and reasonable.
- (4) If a lease or agreement contains provisions fixing the payments or parts of payments which are in respect of services or the use of assets, those provisions are not conclusive.
- (5) A relevant asset is any description of property or rights other than land or an interest in land.

#### **681AJ Commercial rent: comparison with rent under a lease**

- (1) Subsection (3) applies—
  - (a) for the purpose of making a comparison under rule 4 of section 681AD(3) if section 681AD has effect because of section 681AA(1), and
  - (b) for the purpose of making a comparison under section 681AE(3) if section 681AE has effect because of section 681AA(2).
- (2) In this section “the actual lease” means the lease mentioned in section 681AA(1)(b) or (2)(b).
- (3) The commercial rent is the rent which might be expected to be paid under a lease, of the land in respect of which the payment mentioned in section 681AA(1)(b) or (2)(b) is made, which—
  - (a) was negotiated in the open market when the actual lease was created,
  - (b) is of the same duration as the actual lease,
  - (c) is subject to the terms and conditions of the actual lease as respects liability for maintenance and repairs, and
  - (d) provides for rent payable at uniform intervals and at an appropriate rate.
- (4) Rent is payable at an appropriate rate if—
  - (a) it is payable at a uniform rate, or
  - (b) in a case where the rent payable under the actual lease is rent at a progressive rate (and such that the amount of rent payable for a year is never less than the amount payable for a previous year),

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it progresses by gradations proportionate to those provided by the actual lease.

### **681AK Commercial rent: comparison with payments other than rent**

- (1) Subsection (2) applies—
  - (a) for the purpose of making a comparison under rule 4 of section 681AD(3) if section 681AD has effect because of section 681AB(1), and
  - (b) for the purpose of making a comparison under section 681AE(3) if section 681AE has effect because of section 681AB(2).
- (2) The commercial rent is the rent which might be expected to be paid under a lease, of the land in respect of which the payment mentioned in section 681AB(1)(b) or (2)(b) is made, which—
  - (a) was negotiated in the open market when the rentcharge or other transaction mentioned in section 681AB(1)(b) or (2)(b) was effected,
  - (b) is a tenant's repairing lease, and
  - (c) is of an appropriate duration.
- (3) A tenant's repairing lease is a lease where the lessee is under an obligation to maintain and repair the whole (or substantially the whole) of the premises comprised in the lease.
- (4) To see whether a lease is of an appropriate duration, take the period over which payments are to be made under the rentcharge or other transaction, and—
  - (a) if that period is 200 years or more (or the obligation to make the payments is perpetual) an appropriate duration is 200 years, or
  - (b) if that period is less than 200 years, an appropriate duration is the same duration as that period.

### **681AL Lease and rent**

- (1) This section applies for the purposes of this Chapter.
- (2) A reference to a lease includes a reference to any of the following—
  - (a) an underlease, sublease, tenancy or licence, and
  - (b) an agreement for a lease, underlease, sublease, tenancy or licence, and
  - (c) in the case of land outside the United Kingdom, an interest corresponding to a lease (as defined here).
- (3) A reference to rent includes a reference to any payment under a lease.
- (4) A reference to rent under a lease includes a reference to expenses which the tenant under the lease is treated as incurring in respect of the land subject to the lease under any of—
  - (a) sections 61 to 67 of ITTOIA 2005 (land occupied for trade purposes), and
  - (b) sections 292 to 297 of that Act (taxed leases).

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- (5) Expenses within subsection (4) must be treated as having been paid as soon as they were incurred.

### **681AM Associated persons**

- (1) This section applies for the purposes of this Chapter.
- (2) The following persons are associated with one another—
- (a) the transferor in an affected transaction and the transferor in another affected transaction, if the two persons are acting in concert or if the two transactions are in any way reciprocal, and
  - (b) any person who is an associate of either of those associated transferors.
- (3) Two or more bodies corporate are associated with one another if they participate in, or are incorporated for the purposes of, a scheme—
- (a) for the reconstruction of any body or bodies corporate, or
  - (b) for the amalgamation of any two or more bodies corporate.
- (4) Persons are associated with one another if they are associates as defined in section 681DL (relatives, settlements, persons controlling bodies, joint owners etc).
- (5) In subsection (2) “affected transaction” means a transaction within—
- (a) section 681AA(1) or (2) or 681AB(1) or (2), or
  - (b) section 835(1) or (2) or 836(1) or (2) of CTA 2010.

### **681AN Land outside the UK**

In the case of land outside the United Kingdom, expressions in this Chapter relating to interests in land and their disposition must be taken to relate to corresponding interests and dispositions.”

3 After section 681AN insert—

## **“CHAPTER 2**

### **NEW LEASE OF LAND AFTER ASSIGNMENT OR SURRENDER**

#### *Overview*

### **681B Overview**

- (1) This Chapter provides that in certain circumstances where a lease of land is assigned or surrendered and another lease is granted or assigned—
- (a) consideration received for the assignment or surrender of the first lease is taxed as a receipt of a trade, profession or vocation or charged to income tax, and
  - (b) tax relief is allowed for rent under the other lease.

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- (2) The Chapter provides that in certain circumstances where a lease is varied it is treated as surrendered and another lease is treated as granted.

### *Application of the Chapter*

#### **681BA New lease after assignment or surrender**

- (1) This Chapter has effect if each of conditions A to E is met.
- (2) Condition A is that—
- (a) a person (“L”) is a lessee of land under a lease which has 50 years or less to run (“the original lease”), and
  - (b) L is entitled in respect of the rent under the original lease to a deduction by way of relevant income tax relief.
- (3) Condition B is that—
- (a) L assigns the original lease to another person or surrenders it to L's landlord, and
  - (b) the consideration for the assignment or surrender would not (apart from this Chapter) be taxable except as capital in L's hands.
- (4) Condition C is that—
- (a) another lease (“the new lease”) is granted, or assigned, to L or a person linked to L, and
  - (b) the new lease is for a term of 15 years or less.
- (5) Condition D is that the new lease—
- (a) is of all or part of the land which was the subject of the original lease, or
  - (b) includes all or part of the land which was the subject of the original lease.
- (6) Condition E is that neither L nor a person linked to L had, before 22 June 1971, a right enforceable at law or in equity to the grant of the new lease.
- (7) If each of conditions A to D is met but condition E is not met, see the relevant provisions in Schedule 2 to CTA 2010 and Schedule 9 to TIOPA 2010.

### *Taxation of consideration*

#### **681BB Taxation of consideration**

- (1) An appropriate amount must be found under subsection (3) or (4) of—
- (a) the consideration received by L for the assignment or surrender, or
  - (b) each instalment of the consideration (if it is paid in instalments).
- (2) For the purposes of the Income Tax Acts the appropriate amount must be treated in accordance with subsections (6) to (8) and not as a capital receipt.
- (3) If the term of the new lease is one year or less, the appropriate amount of the consideration or instalment is the whole of it.



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- (4) If the term of the new lease is more than one year, the appropriate amount of the consideration or instalment is the proportion of it found by the formula—

$$\frac{16 - N}{15}$$

- (5) In subsection (4) N is the term of the new lease expressed in years (taking part of a year as an appropriate proportion of a year).
- (6) The way the appropriate amount must be treated depends on whether the following conditions are met—
- (a) the consideration is received by L in the course of a trade, profession or vocation, and
  - (b) the rent payable by L, or a person linked to L, under the new lease is allowable as a deduction in calculating profits or losses of a trade, profession or vocation for tax purposes.
- (7) If the conditions are met the appropriate amount must be treated as a receipt of the trade, profession or vocation mentioned in subsection (6)(a).
- (8) If the conditions are not met the appropriate amount must be treated as an amount chargeable to income tax.
- (9) If income tax is charged under subsection (8)—
- (a) it must be charged on the proportion of the appropriate amount arising in the tax year,
  - (b) the person liable for the tax is L, and
  - (c) the amount charged must be treated for income tax purposes as an amount of income.

#### **681BC Position where new lease does not include all original property**

- (1) This section applies for the purposes of section 681BB if the property which is the subject of the new lease does not include all the property which was the subject of the original lease.
- (2) The consideration received by L must be treated as reduced to the portion of it found under subsection (3).
- (3) The portion is that which is reasonably attributable to such part of the original property as—
- (a) consists of the property which is the subject of the new lease, or
  - (b) is included in the property which is the subject of the new lease.
- (4) The original property is the property which was the subject of the original lease.

#### *Relief for rent under new lease*

#### **681BD Relief for rent under new lease**

- (1) This section applies if the rent under the new lease is payable by a person within the charge to income tax.

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- (2) This section also applies if—
  - (a) Chapter 2 of Part 19 of CTA 2010 (provision for corporation tax corresponding to this Chapter) has effect, and
  - (b) the rent under the new lease is payable by a person within the charge to income tax.
- (3) The provisions of ITTOIA 2005 providing for deductions or allowances by way of income tax relief in respect of payments of rent apply in relation to the rent under the new lease.
- (4) In subsection (2), and in subsection (3) as applied by subsection (2), references to the new lease and rent are to be read as in Chapter 2 of Part 19 of CTA 2010.

*New lease treated as ending*

**681BE New lease treated as ending**

- (1) Sections 681BF to 681BH treat the new lease as ending in certain circumstances for the purposes of this Chapter.
- (2) If any of those provisions apply in a given case, and the new lease is treated as ending on different dates, it must be treated as ending on the earlier or earliest of them.

**681BF Position where rent reduces**

- (1) If the rent for a relevant period exceeds the rent for the following comparable period, the term of the new lease must be treated as ending on the date when the relevant period ends.
- (2) For the purposes of this section—
  - (a) a relevant period is a rental period of the new lease ending before its fifteenth anniversary,
  - (b) the following comparable period (in relation to a relevant period) is the rental period which is of the same duration as the relevant period and which begins on the day following the end of the relevant period,
  - (c) the rent for a period is the total rent payable under the new lease in respect of the period,
  - (d) a rental period is a period in respect of which a payment of rent is to be made, and
  - (e) the fifteenth anniversary of the new lease is the fifteenth anniversary of the date on which its term begins.
- (3) For the purposes of this section—
  - (a) all rental periods of a quarter must be treated as being of the same duration, and
  - (b) all rental periods of a month must be treated as being of the same duration.

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### **681BG Position where lease may be ended**

- (1) This section applies if under the new lease the lessor, or L or a person linked to L, has power to end the lease before the end of the term for which it was granted.
- (2) The term of the lease must be treated as ending on the earliest date with effect from which the lessor, or L or a person linked to L, could end the lease by exercising the power.

### **681BH Position where lease may be varied**

- (1) This section applies if under the new lease L, or a person linked to L, has power to vary, in a manner beneficial to L or a person linked to L, obligations under the lease that are obligations of L or a person linked to L.
- (2) The term of the lease must be treated as ending on the earliest date with effect from which L, or a person linked to L, could vary the obligations by exercising the power.

### **681BI Lease treated as ending: rentcharge**

- (1) Subsection (2) applies if a rentcharge payable by L, or a person linked to L, is secured on all or part of the property subject to the new lease.
- (2) For the purposes of sections 681BF to 681BH the rent payable under the new lease must be treated as equal to the sum of the rentcharge and the rent payable under the lease.

*Lease varied to provide for increased rent*

### **681BJ Lease varied to provide for increased rent**

- (1) This section applies if each of conditions A to D is met.
- (2) Condition A is that—
  - (a) a person (“the lessee”) is a lessee of land under a lease which has 50 years or less to run (“the original lease”), and
  - (b) the lessee is entitled in respect of the rent under the original lease to a deduction by way of relevant income tax relief.
- (3) Condition B is that (by agreement with the landlord) the lessee varies the original lease.
- (4) Condition C is that under the variation—
  - (a) the lessee agrees to pay a rent greater than that payable under the original lease, and
  - (b) the lessee agrees to pay the greater rent in return for a consideration which would not (apart from this Chapter) be taxable except as capital in the lessee's hands.
- (5) Condition D is that under the variation the period during which the greater rent is to be paid ends 15 years or less after the date on which—

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- (a) the consideration is paid to the lessee, or
  - (b) the last instalment of the consideration is paid to the lessee (if it is paid in instalments).
- (6) If this section applies the lessee must be treated for the purposes of this Chapter—
- (a) as having surrendered the original lease for the consideration mentioned in subsection (4)(b), and
  - (b) as having been granted a new lease for a term of 15 years or less but otherwise on the terms of the original lease varied as mentioned in subsection (3).

### *Interpretation*

#### **681BK Relevant income tax relief**

For the purposes of this Chapter each of the following is a deduction by way of relevant income tax relief—

- (a) a deduction in calculating profits or losses of a trade, profession or vocation for income tax purposes,
- (b) a deduction in calculating the profits of a UK property business for income tax purposes,
- (c) a deduction in calculating any loss for which relief is given under section 152 (losses from miscellaneous transactions), or in calculating profits or other income or gains chargeable to income tax under or by virtue of any provision to which section 1016 applies, and
- (d) a deduction from earnings allowed under section 336 of ITEPA 2003 (expenses) or allowed in calculating losses in an employment for income tax purposes.

#### **681BL Linked persons**

- (1) In this Chapter references to a person linked to L are to a person who is—
  - (a) a partner of L,
  - (b) an associate of L, or
  - (c) an associate of a partner of L.
- (2) “Associate” must be read in accordance with section 681DL (relatives, settlements, persons controlling bodies, joint owners etc).

#### **681BM Lease, lessee, lessor and rent**

- (1) This section applies for the purposes of this Chapter.
- (2) “Lease” includes—
  - (a) an agreement for a lease, and
  - (b) any tenancy.
- (3) “Lease” does not include a mortgage.
- (4) A reference to a lessee or lessor—

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- (a) is to be read in accordance with subsections (2) and (3), and
  - (b) includes a reference to the successors in title of a lessee or lessor.
- (5) “Rent” includes a payment by a tenant for work to maintain or repair leased premises which the lease does not require the tenant to carry out; and “premises” here includes land.
- (6) In the application of this section to Scotland “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.”
- 4 After section 681BM insert—

### “CHAPTER 3

#### LEASED TRADING ASSETS

##### *Overview*

#### **681C Overview**

This Chapter provides that, in certain circumstances where a payment is made under a lease of a trading asset, income tax relief for the payment is restricted.

##### *Application of the Chapter*

#### **681CA Professions and vocations**

In this Chapter a reference to a trade includes a reference to a profession or vocation.

#### **681CB Leased trading assets**

- (1) Section 681CC has effect if—
  - (a) condition A is met, and
  - (b) condition B or C is met.
- (2) Condition A is that—
  - (a) a payment is made by a person under a lease of a relevant asset, and
  - (b) a deduction is allowed for the payment in calculating the profits of a trade for income tax purposes.
- (3) Condition B is that—
  - (a) at a time before the lease's creation the asset was used for the purposes of the trade, and
  - (b) when it was so used it was owned by the person then carrying on the trade.

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- (4) Condition C is that—
- (a) at a time before the lease's creation the asset was used for the purposes of another trade,
  - (b) when it was so used it was owned by the person then carrying on the other trade, and
  - (c) when it was so used, or later, that person was carrying on the trade mentioned in subsection (2).
- (5) The reference in subsection (2)(a) to a lease does not include a lease created on or before 14 April 1964.
- (6) In this section references to a person carrying on a trade are to the person carrying on the trade for the time being.

*Relief: restriction and carrying forward*

#### **681CC Tax deduction not to exceed commercial rent**

- (1) The rules in subsection (3) apply to the calculation of the deduction by way of relevant income tax relief allowed in a relevant period—
- (a) for the non-excluded element of the payment within section 681CB(2), or
  - (b) if there are two or more such payments, for the non-excluded elements of those payments.
- (2) For the purposes of this section—
- (a) “relevant period” means—
    - (i) a period of account of the trade, or
    - (ii) if no accounts of the trade are drawn up for a period, the basis period of a tax year, and
  - (b) the non-excluded element of a payment is the element of the payment not excluded under section 681CD (long funding finance leases).
- (3) The rules are—
- Rule 1 —meaning of amount E* For any relevant period, amount E (which may be nil) is the expense or total expenses to be brought, in accordance with generally accepted accounting practice, into account in the period in respect of—
- (a) the non-excluded element of the payment, or
  - (b) the non-excluded elements of the payments.
- Rule 2 — calculations* For every relevant period—
- (a) calculate the total of amount E for the period and amount E for every previous relevant period ending on or after the date of the creation of the lease mentioned in section 681CB(2)(a),
  - (b) calculate the total of the deductions by way of relevant income tax relief for every previous relevant period ending on or after that date, and
  - (c) subtract the total at (b) from the total at (a) to give the cumulative unrelieved expenses for the period.

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*Rule 3 — meaning of post-spread period* A relevant period is a post-spread period if for that relevant period, and every later relevant period, there are no payments within section 681CB(2).

*Rule 4 — the deduction allowed in a relevant period* If a relevant period is not a post-spread period, the deduction allowed for the period is equal to the cumulative unrelieved expenses for the period, but is the commercial rent for the period if that is less (see section 681CE).

*Rule 5— relevant periods in which no deduction allowed* If a relevant period is a post-spread period, no deduction is allowed for the period.

### **681CD Long funding finance leases**

- (1) This section applies for the purposes of section 681CC.
- (2) A payment must be excluded so far as, in the case of the lessee, it is to be regarded in accordance with Chapter 6A of Part 2 of CAA 2001 as a payment under a lease which is a long funding finance lease for the purposes of that Part.

### **681CE Commercial rent**

- (1) Subsection (3) applies for the purpose of making a comparison under rule 4 of section 681CC(3).
- (2) In this section “the actual lease” means the lease mentioned in section 681CB(2)(a).
- (3) The commercial rent is the rent which might at the relevant time be expected to be paid under a lease of the asset if—
  - (a) the lease were for the rest of the asset's expected normal working life,
  - (b) the rent were payable at uniform intervals and at a uniform rate, and
  - (c) the rent gave a reasonable return for the asset's market value at the relevant time, taking account of the actual lease's terms and conditions.
- (4) The relevant time is the time when the actual lease was created.
- (5) An asset's expected normal working life is the period which might be expected, when it is first put into use, to pass before it is finally put out of use as being unfit for further use.
- (6) In applying subsection (5) it must be assumed that the asset will be used in the normal way, and to the normal extent, throughout the period.
- (7) If the asset is used at the same time partly for the purposes of the trade mentioned in section 681CB(2)(b) and partly for other purposes, the commercial rent as defined in subsection (3) is to be determined by reference to what would be paid for such partial use.

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## *Interpretation*

### **681CF Lease**

- (1) This section applies for the purposes of this Chapter.
- (2) A lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset.
- (3) In particular it includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it.

### **681CG Relevant asset**

For the purposes of this Chapter a relevant asset is any description of property or rights other than land or an interest in land.”

5 After section 681CG insert—

## **“CHAPTER 4**

### LEASED ASSETS: CAPITAL SUMS

#### *Overview*

### **681D Overview**

This Chapter provides that in certain circumstances where a payment is made under a lease of an asset, and a capital sum is obtained in respect of an interest in the asset, income tax is charged on an amount not greater than the capital sum.

#### *Application of the Chapter*

### **681DA Application of the Chapter**

This Chapter applies if—

- (a) condition A is met (see section 681DB), and
- (b) condition B, C, D or E is met (see section 681DC).

### **681DB Payment under lease**

- (1) Condition A is that—
  - (a) a payment is made under a lease of a relevant asset, and
  - (b) the payment is one for which a deduction by way of relevant tax relief is allowed.
- (2) Condition A is not met if section 681CC (leased trading assets: tax deductions)—



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- (a) applies to the payment, or
  - (b) would apply to it but for its being excluded under section 681CD (long funding finance leases).
- (3) Condition A is not met if section 865 of CTA 2010 (provision for corporation tax corresponding to section 681CC)—
- (a) applies to the payment, or
  - (b) would apply to it but for its being excluded under section 866 of that Act (long funding finance leases).
- (4) The reference in subsection (1)(a) to a lease does not include a lease created on or before 14 April 1964.

### **681DC Sum obtained**

- (1) Condition B is that the person making the payment—
- (a) obtains a capital sum in respect of the lessee's interest in the lease, and
  - (b) is within the charge to income tax.
- (2) Condition C is that an associate of the person making the payment—
- (a) obtains a capital sum by way of consideration in respect of the lessee's interest in the lease, and
  - (b) is within the charge to income tax.
- (3) Condition D is that—
- (a) the lessor's interest in the lease, or any other interest in the asset, belongs to an associate of the person making the payment,
  - (b) the associate obtains a capital sum in respect of the interest, and
  - (c) the associate is within the charge to income tax.
- (4) Condition E is that—
- (a) the lessor's interest in the lease, or any other interest in the asset, belongs to an associate of the person making the payment,
  - (b) an associate of that associate obtains a capital sum by way of consideration in respect of the interest, and
  - (c) the associate obtaining the sum is within the charge to income tax.
- (5) Condition B, C, D or E may be met before, at or after the time when the payment is made.
- (6) Condition B or C is not met if—
- (a) the lease is a hire-purchase agreement for plant or machinery, and
  - (b) the capital sum is required to be brought into account as the whole or part of the disposal value of the plant or machinery under section 68 of CAA 2001.
- (7) Condition D or E is not met if—
- (a) the capital sum is obtained in respect of the lessee's interest in the lease,
  - (b) the lease is a hire-purchase agreement for plant or machinery, and

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- (c) the capital sum is required to be brought into account as the whole or part of the disposal value of the plant or machinery under section 68 of CAA 2001.

#### *Charge to income tax*

#### **681DD Charge to income tax**

- (1) The person obtaining the capital sum is charged to income tax, for the tax year in which the sum is obtained, on the amount given by subsection (2).
- (2) That amount is—
  - (a) the amount of the payment for which a deduction by way of relevant tax relief is allowed, or
  - (b) the total amount of such payments (if more than one).
- (3) But subsections (1) and (2) have effect subject to—
  - (a) subsections (4) to (7), and
  - (b) section 681DE(3) (hire-purchase agreements).
- (4) The amount on which tax is charged under this section is not to exceed the capital sum obtained (but see section 681DE(4)).
- (5) Subsection (6) applies if—
  - (a) income tax is charged under this section in respect of a capital sum, and
  - (b) a payment or part of a payment is taken into account in deciding the amount on which the tax is charged.
- (6) The payment or part must be left out of account in deciding—
  - (a) whether income tax is to be charged under this section in respect of another capital sum, and
  - (b) the amount on which the tax is to be charged (if any is to be charged).
- (7) The order in which subsections (5) and (6) are applied is the order in which capital sums are obtained.
- (8) An amount on which income tax is charged under this section is treated for income tax purposes as an amount of income.

#### **681DE Hire-purchase agreements**

- (1) This section applies if—
  - (a) the lease is a hire-purchase agreement (as defined in section 998A), and
  - (b) the capital sum is obtained in respect of the lessee's interest in the lease (whether it is obtained by the person making the payment or by an associate).
- (2) Find the total of the following amounts—
  - (a) so much of any payment made under the lease by the person obtaining the capital sum as is not a payment for which a deduction by way of relevant tax relief is allowed, and

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- (b) if the lessee's interest was assigned to the person obtaining the capital sum, any capital payment made by that person as consideration for the assignment.
- (3) If the total of the amounts found under subsection (2) is equal to or greater than the capital sum, income tax is not charged under section 681DD in respect of the capital sum.
- (4) If the total of those amounts is less than the capital sum, in applying section 681DD(4) that total must be deducted from the capital sum.
- (5) If the capital sum is the consideration for part only of the lessee's interest in the lease—
  - (a) any amount found under subsection (2) (and still unallowed) must be reduced to a just and reasonable proportion of it, and
  - (b) in calculating that proportion account must be taken of the degree to which the payments mentioned in subsection (2) have contributed to the value of what is disposed of in return for the capital sum.
- (6) Subsection (7) applies if—
  - (a) more than one capital sum is (or is treated as) obtained by the same person in respect of the lessee's interest in the lease, and
  - (b) in arriving at a total under subsection (2) a payment is taken into account in respect of one of the capital sums.
- (7) So far as the payment is so taken into account it must not be taken into account in applying subsection (2) to another of the capital sums.
- (8) The order in which subsections (6) and (7) are applied is the order in which capital sums are obtained.
- (9) If the capital sum is obtained by the personal representatives of a deceased person, the reference in subsection (2)(a) to any payment made under the lease by the person obtaining the capital sum includes any payment made under the lease by the deceased.

#### **681DF Adjustments where sum obtained before payment made**

- (1) This section applies if a capital sum is obtained as mentioned in section 681DC and later a payment is made as mentioned in section 681DB.
- (2) Adjustments must be made if they are needed to give effect to a charge to income tax under section 681DD in respect of the capital sum.
- (3) An adjustment may be made within the period ending with the fifth anniversary of the 31 January following the tax year in which the payment is made.
- (4) Subsection (3) applies despite any time limit specified in the Income Tax Acts.

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### *Obtaining of sum*

#### **681DG Sum obtained in respect of interest**

A reference in this Chapter to a sum obtained in respect of an interest in an asset (whether the lessee's interest in a lease of the asset or the lessor's interest or any other interest) includes a reference to—

- (a) insurance money obtained in respect of the interest, and
- (b) sums representing money or money's worth obtained in respect of the interest by a transaction or series of transactions disposing of it.

#### **681DH Sum obtained in respect of lessee's interest**

- (1) This section applies to a reference in this Chapter to a sum obtained in respect of the lessee's interest in a lease of an asset.
- (2) The reference includes a reference to sums representing the consideration in money or money's worth obtained on any of the following occasions—
  - (a) a surrender of the interest to the lessor,
  - (b) an assignment of the lease, and
  - (c) the creation of a sublease or another interest out of the lease.
- (3) The reference also includes a reference to sums representing money or money's worth obtained in respect of the interest by a transaction or series of transactions under which the lessee's rights are merged in any way with the lessor's rights or with any other rights as respects the asset.
- (4) Subsection (3) applies so far as the money or money's worth is attributable to the lessee's rights under the lease.

#### **681DI Disposal of interest to associate**

- (1) This section applies for the purposes of this Chapter if a person disposes of an interest in an asset to a person who is the first person's associate (and the interest may be the lessee's interest in a lease of the asset or the lessor's interest or any other interest).
- (2) The person disposing of the interest must be treated as obtaining in respect of it the greatest of—
  - (a) the sum in fact obtained by the person,
  - (b) the value of the interest in the open market, and
  - (c) the value of the interest to the person to whom it is in effect transferred.
- (3) The disposal—
  - (a) may be direct or indirect, and
  - (b) may be effected by a transaction or series of transactions described in section 681DG(b) or 681DH(3).

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## Appportionment

### 681DJ Appportionment of payments made and of sums obtained

- (1) This section applies for the purposes of this Chapter.
- (2) Subsection (3) applies if—
  - (a) a payment is made,
  - (b) it is one for which a deduction by way of relevant tax relief is allowed, and
  - (c) it is made by persons carrying on a trade or profession in partnership.
- (3) The payment must be apportioned in a manner which is just and reasonable.
- (4) Subsection (5) applies if—
  - (a) a sum is obtained in respect of an interest in an asset,
  - (b) the sum is obtained by persons carrying on a trade or profession in partnership, and
  - (c) the asset is and continues to be used for the purposes of the trade or profession.
- (5) The sum must be apportioned between the partners in the shares in which they are entitled to the profits of the trade or profession at the time the sum is obtained.
- (6) Subsection (7) applies if—
  - (a) a sum is obtained in respect of an interest in an asset, and
  - (b) the sum is obtained by persons jointly entitled to the interest.
- (7) The sum must be apportioned according to their respective rights in the interest.
- (8) Subsections (6) and (7) are subject to subsections (4) and (5).

### 681DK Manner of apportionment

- (1) Subsections (2) and (3) apply if—
  - (a) a payment or sum is to be apportioned under section 681DJ or under section 880 of CTA 2010,
  - (b) at the time of the apportionment it appears that it is material to the liability to tax (whether income tax or corporation tax, and for whatever period) of two or more persons (in this section referred to collectively as “the set”),
  - (c) a question arises as to the manner in which the payment or sum is to be apportioned, and
  - (d) at the time of the apportionment, it appears that the apportionment is material to the income tax liability (for whatever period) of—
    - (i) a person, or some two or more persons, in the set, or
    - (ii) all the persons in the set.

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- (2) For the purposes of income tax of the person or persons mentioned in subsection (1)(d), the question is to be determined in the same way as an appeal.
- (3) All the persons in the set are entitled to be a party to the proceedings.

### *Interpretation*

#### **681DL Associates**

- (1) This section applies for the purposes of this Chapter.
- (2) Persons are associates if they are associated with each other.
- (3) The following are associated with each other—
  - (a) an individual and the individual's spouse or civil partner or relative,
  - (b) an individual and a spouse or civil partner of a relative of the individual,
  - (c) an individual and a relative of the individual's spouse or civil partner,
  - (d) an individual and a spouse or civil partner of a relative of the individual's spouse or civil partner.
- (4) The following are associated with each other—
  - (a) a person as trustee of a settlement and an individual who (in relation to the settlement) is a settlor,
  - (b) a person as trustee of a settlement and a person associated with an individual who (in relation to the settlement) is a settlor.
- (5) The following are associated with each other—
  - (a) a person and a body of persons of which the person has control,
  - (b) a person and a body of persons of which persons associated with the person have control,
  - (c) a person and a body of persons of which the person and persons associated with the person have control,
  - (d) two or more bodies of persons associated with the same person under paragraphs (a) to (c).
- (6) In relation to a disposal by joint owners, the joint owners and any person associated with any of them are associated with each other.
- (7) For the purposes of this section—
  - (a) a relative is a brother, sister, ancestor or lineal descendant,
  - (b) a body of persons includes a partnership, and
  - (c) “settlement” and “settlor” have the meanings given by section 620 of ITTOIA 2005.

#### **681DM Capital sum**

For the purposes of this Chapter a capital sum is any sum of money, or any money's worth, except so far as it or any part of it—

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- (a) is to be treated for income tax purposes as a receipt to be taken into account in calculating the profits or losses of a trade, profession or vocation, or
- (b) is (apart from this Chapter) chargeable to income tax under or by virtue of any provision to which section 1016 applies.

#### **681DN Lease**

- (1) This section applies for the purposes of this Chapter.
- (2) A lease is (in relation to an asset) an agreement or arrangement under which payments are made for the use of or otherwise in respect of the asset.
- (3) In particular it includes an agreement or arrangement under which the payments (or any of them) represent instalments of a purchase price or payments towards it.

#### **681DO Relevant asset**

For the purposes of this Chapter a relevant asset is any description of property or rights other than land or an interest in land.

#### **681DP Relevant tax relief**

For the purposes of this Chapter each of the following is a deduction by way of relevant tax relief—

- (a) a deduction in calculating profits or losses of a trade for corporation tax purposes,
- (b) a deduction in calculating any loss for which relief is given under section 91 of CTA 2010 (losses from miscellaneous transactions), or in calculating profits or gains chargeable to corporation tax under or by virtue of any provision to which section 1173 of CTA 2010 applies (miscellaneous charges),
- (c) a deduction under section 76 of ICTA (insurance companies),
- (d) a deduction under section 1219 of CTA 2009 (expenses of management of a company's investment business),
- (e) a deduction in calculating profits or losses of a trade, profession or vocation for income tax purposes,
- (f) a deduction in calculating any loss for which relief is allowed under section 152 (losses from miscellaneous transactions), or in calculating profits or other income or gains chargeable to income tax under or by virtue of any provision to which section 1016 applies, and
- (g) a deduction from earnings allowed under section 336 of ITEPA 2003 (expenses) or allowed in calculating losses in an employment for income tax purposes.”

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## SCHEDULE 5

Section 369

### FACTORING OF INCOME ETC: NEW CHAPTERS 5B AND 5C OF PART 13 OF ITA 2007

- 1 ITA 2007 is amended as follows.
- 2 After section 809AZG insert—

#### “CHAPTER 5B

#### FINANCE ARRANGEMENTS

##### *Type 1 arrangements*

#### **809BZA Type 1 finance arrangement defined**

- (1) For the purposes of this Chapter an arrangement is a type 1 finance arrangement if conditions A and B are met.
- (2) Condition A is that under the arrangement—
  - (a) a person (“the borrower”) receives money or another asset (“the advance”) from another person (“the lender”),
  - (b) the borrower or a person connected with the borrower makes a disposal of an asset (“the security”) to or for the benefit of the lender or a person connected with the lender, and
  - (c) the lender or a person connected with the lender is entitled to payments in respect of the security.
- (3) Condition B is that in accordance with generally accepted accounting practice—
  - (a) the borrower's accounts for the period in which the advance is received record a financial liability in respect of it, and
  - (b) the payments reduce the amount of the financial liability.
- (4) If the borrower is a partnership the reference to the borrower's accounts includes a reference to the accounts of any member of the partnership.
- (5) For the purposes of this section the borrower and the lender are not connected with one another.

#### **809BZB Certain tax consequences not to have effect**

- (1) This section applies if a type 1 finance arrangement would have the relevant effect (ignoring this section).
- (2) The arrangement is not to have that effect.
- (3) The relevant effect is that—
  - (a) an amount of income on which the borrower or a person connected with the borrower would otherwise have been charged to income tax is not so charged,
  - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of the borrower



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- or of a person connected with the borrower is not so brought into account, or
- (c) the borrower or a person connected with the borrower becomes entitled to an income deduction.
- (4) But if the borrower is a partnership the relevant effect is that—
- (a) an amount of income on which a member of the partnership would otherwise have been charged to income tax is not so charged,
- (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of a member of the partnership is not so brought into account, or
- (c) a member of the partnership becomes entitled to an income deduction.
- (5) For the purposes of this section the borrower and the lender are not connected with one another.
- (6) An income deduction is—
- (a) a deduction in calculating income for income tax purposes, or
- (b) a deduction from total income.

#### **809BZC Payments treated as borrower's income**

- (1) This section applies if—
- (a) a type 1 finance arrangement would not have the relevant effect (ignoring section 809BZB(2)),
- (b) that arrangement would not have the corresponding corporation-tax effect (ignoring section 759(2) of CTA 2010), and
- (c) the borrower is—
- (i) within the charge to income tax, or
- (ii) a partnership at least one member of which is within the charge to income tax.
- (2) The payments mentioned in section 809BZA(2)(c) must be treated for income tax purposes as income of the borrower payable in respect of the security.
- (3) Subsection (2) applies whether or not the payments are also the income of another person for tax purposes.
- (4) Subsections (3) to (6) of section 809BZB (meaning of relevant effect) apply for the purposes of this section as for those of that.
- (5) In subsection (1)(b) “the corresponding corporation-tax effect” means the relevant effect as defined by section 759(3) to (6) of CTA 2010 (provision for corporation tax corresponding to section 809BZB(3) to (6)).

#### **809BZD Deemed interest if borrower is not a partnership**

- (1) This section applies if—
- (a) there is a type 1 finance arrangement,
- (b) the borrower is not a partnership,

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- (c) the arrangement is prevented by section 809BZB from having the relevant effect in relation to the borrower, or section 809BZC applies to the borrower, and
  - (d) in accordance with generally accepted accounting practice the borrower's accounts record an amount as a finance charge in respect of the advance.
- (2) For income tax purposes the borrower may treat the amount as interest payable on a loan.
- (3) If an amount is treated as interest (“deemed interest”) under subsection (2), to find out when it is paid—
- (a) treat the payments mentioned in section 809BZA(2)(c) as consisting of amounts for repaying the advance and amounts (“the interest elements”) in respect of interest on the advance,
  - (b) treat the interest elements of the payments as paid when the payments are paid, and
  - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.

#### **809BZE Deemed interest if borrower is a partnership**

- (1) This section applies if each of conditions A to C is met.
- (2) Condition A is that—
- (a) there is a type 1 finance arrangement, and
  - (b) the borrower is a partnership.
- (3) Condition B is that—
- (a) the arrangement is prevented by section 809BZB from having the relevant effect in relation to a person who is a member of the partnership, or
  - (b) section 809BZC applies to the partnership (in which event “the person” in subsections (4) and (5) means the person within the charge to income tax who is a member of the partnership).
- (4) Condition C is that in accordance with generally accepted accounting practice the person's accounts, or the partnership's accounts, record an amount as a finance charge in respect of the advance.
- (5) For income tax purposes the person may treat the amount as interest payable by the partnership on a loan.
- (6) If an amount is treated as interest (“deemed interest”) under subsection (5), to find out when it is paid—
- (a) treat the payments mentioned in section 809BZA(2)(c) as consisting of amounts for repaying the advance and amounts (“the interest elements”) in respect of interest on the advance,
  - (b) treat the interest elements of the payments as paid when the payments are paid, and
  - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.”

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### “Type 2 arrangements

#### **809BZF Type 2 finance arrangement defined**

- (1) For the purposes of this Chapter an arrangement is a type 2 finance arrangement if conditions A and B are met.
- (2) Condition A is that—
  - (a) under the arrangement a person (“the transferor”) makes a disposal of an asset (“the security”) to a partnership,
  - (b) the transferor is a member of the partnership immediately after the disposal (whether or not a member immediately before it),
  - (c) under the arrangement the partnership receives money or another asset (“the advance”) from another person (“the lender”),
  - (d) there is a relevant change in relation to the partnership (see section 809BZG), and
  - (e) under the arrangement the share in the partnership's profits of the person involved in the change is determined by reference (wholly or partly) to payments in respect of the security.
- (3) Condition B is that in accordance with generally accepted accounting practice—
  - (a) the partnership's accounts for the period in which the advance is received record a financial liability in respect of it, and
  - (b) the payments reduce the amount of the financial liability.
- (4) The reference to the partnership's accounts includes a reference to the transferor's accounts.

#### **809BZG Relevant change in relation to partnership**

- (1) For the purposes of this Chapter there is a relevant change in relation to a partnership if condition A or condition B is met.
- (2) Condition A is that in connection with the arrangement the lender or a person connected with the lender becomes a member of the partnership at any time.
- (3) Condition B is that—
  - (a) in connection with the arrangement there is at any time a change in a member's share in the partnership's profits, and
  - (b) the member is the lender or a person connected with the lender or a person who in connection with the arrangement becomes at any time connected with the lender.
- (4) An event occurs in connection with the arrangement if it occurs directly or indirectly in consequence of it or otherwise in connection with it.
- (5) If there is a relevant change in relation to a partnership, a reference in this Chapter to the person involved in the change is—
  - (a) if it is condition A that is met, to the person who becomes a member of the partnership, and

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- (b) if it is condition B that is met, to the member of the partnership in whose share in the partnership's profits there is a change.

### **809BZH Certain tax consequences not to have effect**

- (1) This section applies if—
  - (a) there is a type 2 finance arrangement, and
  - (b) any relevant change in relation to the partnership would have the relevant effect (ignoring this section).
- (2) In such a case—
  - (a) Part 9 of ITTOIA 2005 (partnerships) is to have effect in relation to the transferor as if the relevant change in relation to the partnership had not occurred, and
  - (b) accordingly the finance arrangement is not to have the relevant effect.
- (3) The relevant effect is that—
  - (a) an amount of income on which the transferor would otherwise have been charged to income tax is not so charged,
  - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of the transferor is not so brought into account, or
  - (c) the transferor becomes entitled to an income deduction.
- (4) In deciding whether subsection (1)(b) is met assume that amounts of income equal to the payments mentioned in section 809BZF(2)(e) were payable to the partnership before the relevant change in relation to it occurred.
- (5) An income deduction is—
  - (a) a deduction in calculating income for income tax purposes, or
  - (b) a deduction from total income.

### **809BZI Deemed interest**

- (1) This section applies if—
  - (a) there is a type 2 finance arrangement,
  - (b) the transferor is a person within the charge to income tax, and
  - (c) in accordance with generally accepted accounting practice the partnership's accounts record an amount as a finance charge in respect of the advance.
- (2) For income tax purposes the transferor may treat the amount as interest payable by the transferor on a loan.
- (3) The reference in subsection (1) to the partnership's accounts includes a reference to the transferor's accounts.
- (4) If an amount is treated as interest (“deemed interest”) under subsection (2), to find out when it is paid—
  - (a) treat the payments mentioned in section 809BZF(2)(e) as consisting of amounts for repaying the advance and amounts (“the interest elements”) in respect of interest on the advance,

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- (b) treat the interest elements of the payments as paid when the payments are paid, and
- (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.”

4 After section 809BZI insert—

*“Type 3 arrangements*

**809BZJ Type 3 finance arrangement defined**

- (1) For the purposes of this Chapter an arrangement is a type 3 finance arrangement if conditions A and B are met.
- (2) Condition A is that—
  - (a) a partnership holds an asset (“the security”) as a partnership asset at any time before the arrangement is made,
  - (b) under the arrangement the partnership receives money or another asset (“the advance”) from another person (“the lender”),
  - (c) there is a relevant change in relation to the partnership (see section 809BZG), and
  - (d) under the arrangement the share in the partnership's profits of the person involved in the change is determined by reference (wholly or partly) to payments in respect of the security.
- (3) Condition B is that in accordance with generally accepted accounting practice—
  - (a) the partnership's accounts for the period in which the advance is received record a financial liability in respect of it, and
  - (b) the payments reduce the amount of the financial liability.
- (4) The reference to the partnership's accounts includes a reference to the accounts of any person who is a member of the partnership immediately before the arrangement is made.

**809BZK Certain tax consequences not to have effect**

- (1) This section applies if—
  - (a) there is a type 3 finance arrangement, and
  - (b) any relevant change in relation to the partnership would have the relevant effect (ignoring this section).
- (2) The relevant effect is that—
  - (a) an amount of income on which a relevant member would otherwise have been charged to income tax is not so charged,
  - (b) an amount which would otherwise have been brought into account in calculating for income tax purposes any income of a relevant member is not so brought into account, or
  - (c) a relevant member becomes entitled to an income deduction.
- (3) A relevant member is a person who—

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- (a) was a member of the partnership immediately before the relevant change in relation to it occurred, and
  - (b) is not the lender.
- (4) If this section applies—
- (a) Part 9 of ITTOIA 2005 (partnerships) is to have effect in relation to any relevant member as if the relevant change in relation to the partnership had not occurred, and
  - (b) accordingly the finance arrangement is not to have the relevant effect.
- (5) In deciding whether subsection (1)(b) is met assume that amounts of income equal to the payments mentioned in section 809BZJ(2)(d) were payable to the partnership before the relevant change in relation to it occurred.
- (6) An income deduction is—
- (a) a deduction in calculating income for income tax purposes, or
  - (b) a deduction from total income.

#### **809BZL Deemed interest**

- (1) This section applies if—
- (a) there is a type 3 finance arrangement,
  - (b) a relevant member is a person within the charge to income tax, and
  - (c) in accordance with generally accepted accounting practice the partnership's accounts record an amount as a finance charge in respect of the advance.
- (2) For income tax purposes the relevant member may treat the amount as interest payable by the partnership on a loan.
- (3) The reference in subsection (1) to the partnership's accounts includes a reference to the accounts of any relevant member.
- (4) If an amount is treated as interest (“deemed interest”) under subsection (2), to find out when it is paid—
- (a) treat the payments mentioned in section 809BZJ(2)(d) as consisting of amounts for repaying the advance and amounts (“the interest elements”) in respect of interest on the advance,
  - (b) treat the interest elements of the payments as paid when the payments are paid, and
  - (c) treat the deemed interest as paid at the times when the interest elements are treated as paid.
- (5) A relevant member is a person who—
- (a) was a member of the partnership immediately before the relevant change in relation to it occurred, and
  - (b) is not the lender.”

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## “Exceptions

### **809BZM Exceptions: preliminary**

- (1) Sections 809BZN to 809BZP make provision for finance arrangement codes not to apply in certain circumstances.
- (2) For the purposes of those sections each of the following groups of provisions is a finance arrangement code—
  - (a) sections 809BZA to 809BZE (type 1 arrangements),
  - (b) sections 809BZF to 809BZI (type 2 arrangements), and
  - (c) sections 809BZJ to 809BZL (type 3 arrangements).

### **809BZN Exceptions**

- (1) A finance arrangement code does not apply if the whole of the advance under the arrangement—
  - (a) is charged to tax on a relevant person as an amount of income,
  - (b) is brought into account in calculating for tax purposes any income of a relevant person, or
  - (c) is brought into account for the purposes of any provision of CAA 2001 as a disposal receipt, or proceeds from a balancing event or disposal event, of a relevant person.
- (2) Treat subsection (1)(c) as not met if—
  - (a) the receipt gives rise, or proceeds give rise, to a balancing charge, and
  - (b) the amount of the balancing charge is limited by any provision of CAA 2001.
- (3) A finance arrangement code does not apply if at all times the whole of the advance under the arrangement—
  - (a) is a debtor relationship of a relevant person for the purposes of Part 5 of CTA 2009 (loan relationships), or
  - (b) would be a debtor relationship of a relevant person for those purposes if that person were a company within the charge to corporation tax.
- (4) In subsection (3) references to a debtor relationship do not include references to a relationship to which Chapter 2 of Part 6 of CTA 2009 applies (relevant non-lending relationships).
- (5) A finance arrangement code does not apply so far as—
  - (a) section 263A of TCGA 1992 applies in relation to the arrangement (agreements for sale and repurchase of securities), or
  - (b) Schedule 13 to FA 2007 or Chapter 10 of Part 6 of CTA 2009 applies in relation to the arrangement (sale and repurchase of securities, and repos).

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- (6) A finance arrangement code does not apply so far as Part 10A of this Act, Chapter 4 of Part 4 of TCGA 1992 or Chapter 6 of Part 6 of CTA 2009 has effect in relation to the arrangement (alternative finance arrangements).
- (7) A finance arrangement code does not apply so far as the security is plant or machinery which is the subject of a sale and finance leaseback.
- (8) For the purposes of subsection (7) apply section 221 of CAA 2001 to determine whether plant or machinery is the subject of a sale and finance leaseback.
- (9) A finance arrangement code does not apply so far as sections 228B and 228C of CAA 2001 (finance leaseback) apply in relation to the arrangement.
- (10) Section 809BZO defines a relevant person for the purposes of this section.

#### **809BZO Exceptions: relevant person**

- (1) This section defines a relevant person for the purposes of section 809BZN.
- (2) If (apart from sections 809BZN and 809BZP) sections 809BZA to 809BZE would apply, each of the following is a relevant person—
  - (a) the borrower, and
  - (b) a person connected with the borrower or (if the borrower is a partnership) a member of the partnership.
- (3) If (apart from sections 809BZN and 809BZP) sections 809BZF to 809BZI would apply, the transferor is a relevant person.
- (4) If (apart from sections 809BZN and 809BZP) sections 809BZJ to 809BZL would apply, a relevant member as there defined is a relevant person.
- (5) For the purposes of subsection (2)(b) the persons connected with the borrower include any persons who under section 993 (meaning of “connected”) are connected with the borrower.

#### **809BZP Power to make further exceptions**

- (1) The Treasury may make regulations prescribing other circumstances in which a finance arrangement code is not to apply.
- (2) The regulations may amend sections 809BZN and 809BZO.
- (3) The power to make regulations includes—
  - (a) power to make provision that has effect in relation to times before the making of the regulations (but not times before 6 June 2006),
  - (b) power to make different provision for different cases or different purposes, and
  - (c) power to make incidental, supplemental, consequential and transitional provision and savings.”

6 After section 809BZP insert—



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## “Supplementary

### **809BZQ Accounts**

- (1) This section applies for the purposes of this Chapter.
- (2) A reference to the accounts of a person includes (if the person is a company) a reference to the consolidated group accounts of a group of companies of which it is a member.
- (3) In determining whether accounts record an amount as a financial liability in respect of an advance, assume that the period in which the advance is received ended immediately after the receipt of the advance.
- (4) If a person does not draw up accounts in accordance with generally accepted accounting practice, assume that the person drew up the accounts in accordance with that practice.

### **809BZR Arrangements**

A reference in this Chapter to an arrangement includes a reference to an agreement or understanding (whether or not legally enforceable).

### **809BZS Assets**

- (1) This section applies for the purposes of this Chapter.
- (2) A reference to a person receiving an asset includes—
  - (a) a reference to the person obtaining (directly or indirectly) the value of an asset or otherwise deriving (directly or indirectly) a benefit from it, and
  - (b) a reference to the discharge (in whole or part) of a liability of the person.
- (3) A reference to a disposal of an asset includes a reference to anything constituting a disposal of it for the purposes of TCGA 1992.
- (4) A reference to payments in respect of an asset includes—
  - (a) a reference to payments in respect of another asset substituted for it under the arrangement, and
  - (b) a reference to obtaining (directly or indirectly) the value of an asset or otherwise deriving (directly or indirectly) a benefit from it.”

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## “CHAPTER 5C

### LOAN OR CREDIT TRANSACTIONS

#### **809CZA Loan or credit transaction defined**

- (1) This section defines a loan or credit transaction for the purposes of sections 809CZB and 809CZC.
- (2) A transaction is a loan or credit transaction if it is—
  - (a) effected with reference to the lending of money or the varying of the terms on which money is lent, or
  - (b) effected with a view to enabling or facilitating an arrangement concerning the lending of money or the varying of the terms on which money is lent.
- (3) A transaction is a loan or credit transaction if it is—
  - (a) effected with reference to the giving of credit or the varying of the terms on which credit is given, or
  - (b) effected with a view to enabling or facilitating an arrangement concerning the giving of credit or the varying of the terms on which credit is given.
- (4) Subsection (2) has effect whether the transaction is effected—
  - (a) between the lender and borrower,
  - (b) between either of them and a person connected with the other, or
  - (c) between a person connected with one and a person connected with the other.
- (5) Subsection (3) has effect whether the transaction is effected—
  - (a) between the creditor and debtor,
  - (b) between either of them and a person connected with the other, or
  - (c) between a person connected with one and a person connected with the other.

#### **809CZB Certain payments treated as yearly interest**

- (1) This section applies if a loan or credit transaction provides for a payment which is not interest but is—
  - (a) an annuity or other annual payment falling within Part 5 of ITTOIA 2005 and chargeable to income tax otherwise than as relevant foreign income, or
  - (b) an annuity or other annual payment which is from a source in the United Kingdom and chargeable to corporation tax under Chapter 5 of Part 10 of CTA 2009 (distributions from unauthorised unit trusts) or Chapter 7 of that Part (annual payments not otherwise charged).
- (2) The payment must be treated for the purposes of the Income Tax Acts as if it were a payment of yearly interest (see, in particular, section 874).

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### **809CZC Tax charged on income transferred**

- (1) This section applies if—
  - (a) under a loan or credit transaction a person transfers income arising from property,
  - (b) the person is not, as a result of Chapter 5B (finance arrangements), chargeable to income tax on the income transferred, and
  - (c) the person is within the charge to income tax.
- (2) In such a case—
  - (a) income tax is charged under this section,
  - (b) the tax is charged on an amount equal to the full amount of the income transferred,
  - (c) the tax is charged for the tax year in which the transfer takes place, and
  - (d) the person who transfers the income is liable for the tax.
- (3) This section does not prejudice the liability of any other person to tax.
- (4) For the purposes of this section a person transfers income if the person surrenders, waives or forgoes it.
- (5) Subsection (6) applies for the purposes of this section if—
  - (a) credit is given for the purchase price of property, and
  - (b) the rights attaching to the property are such that the buyer's rights to income from the property are suspended or restricted during the life of the debt.
- (6) The buyer must be treated as surrendering income of an amount equal to the income the buyer in effect forgoes by obtaining the credit.
- (7) For the purposes of this section an amount of income payable subject to deduction of income tax must be taken as the amount before deduction of tax.”

## SCHEDULE 6

Section 370

### UK REPRESENTATIVES OF NON-UK RESIDENTS

#### PART 1

##### NEW CHAPTERS 2B AND 2C OF PART 14 OF ITA 2007

1 After section 835B of ITA 2007 (which is inserted by Schedule 7) insert—

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## “CHAPTER 2B

### UK REPRESENTATIVE OF NON-UK RESIDENT

#### *Introduction*

#### **835C Overview of Chapter**

- (1) This Chapter provides for a branch or agency to be treated as the UK representative of a non-UK resident in respect of certain amounts chargeable to income tax.
- (2) For obligations and liabilities in relation to income tax imposed on a branch or agency which under this Chapter is treated as the UK representative of a non-UK resident, see Chapter 2C.”

2 After section 835C insert—

#### **“835D Income tax chargeable on company's income: application**

This Chapter does not apply in relation to income tax chargeable on income of a company otherwise than as a trustee.”

3 After section 835D insert—

#### *“Branches and agencies*

#### **835E Branch or agency treated as UK representative**

- (1) This section applies if a non-UK resident carries on (alone or in partnership) any trade, profession or vocation through a branch or agency in the United Kingdom.
- (2) The branch or agency is the UK representative of the non-UK resident in relation to—
  - (a) the amount of any income from the trade, profession or vocation that arises (directly or indirectly) through or from the branch or agency, and
  - (b) the amount of any income from property or rights which are used by, or held by or for, the branch or agency.
- (3) The following rules are to be applied for the purposes of subsection (2) and Chapter 2C in relation to an amount within that subsection.

*Rule 1* The UK representative continues to be the UK representative of the non-UK resident in relation to the amount even after ceasing to be a branch or agency through which the non-UK resident carries on the trade, profession or vocation concerned.

*Rule 2* The UK representative is treated in relation to the amount as a distinct and separate person from the non-UK resident (if the representative would not otherwise be so treated).

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*Rule 3* If the branch or agency is carried on by persons in partnership, the partnership, as such, is treated in relation to the amount as the UK representative of the non-UK resident.

(4) For further rules that apply where a trade or profession carried on by a non-UK resident in the United Kingdom is carried on in partnership, see section 835F.

(5) This section needs to be read with sections 835G to 835K (which provide for descriptions of persons who are not to be regarded as the UK representative of a non-UK resident if certain conditions are met).”

4 After section 835E insert—

**“835F Trade or profession carried on in partnership**

(1) Subsection (2) applies if a trade or profession carried on by a non-UK resident through a branch or agency in the United Kingdom is carried on by the non-UK resident in partnership.

(2) The trade or profession carried on through the branch or agency is, for the purposes of section 835E and Chapter 2C, to be treated as including the notional trade or profession.

(3) Subsection (4) applies (in addition to subsection (2) if that subsection also applies) if—

- (a) a trade or profession carried on by a non-UK resident in the United Kingdom is carried on by the non-UK resident in partnership, and
- (b) any member of the partnership is resident in the United Kingdom.

(4) The notional trade or profession is, for the purposes of section 835E and Chapter 2C, to be treated as being a trade carried on in the United Kingdom through the partnership as such.

(5) In this section “the notional trade or profession” means the notional trade from which the non-UK resident's share in the partnership's profits or losses is treated for the purposes of section 852 of ITTOIA 2005 as deriving.”

5 After section 835F insert—

*“Persons who are not UK representatives*

**835G Agents**

(1) This section applies if a non-UK resident carries on (alone or in partnership) a business through an agent in the United Kingdom.

(2) The agent is not the UK representative of the non-UK resident in relation to an amount within section 835E(2) arising to the non-UK resident from—

- (a) so much of the non-UK resident's business as relates to disregarded transactions, or
- (b) property or rights which, as a result of disregarded transactions, are used by, or held by or for, the agent on behalf of the non-UK resident.

(3) “Disregarded transactions” are transactions—

*Status: Point in time view as at 01/01/2016.*

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- (a) carried out through the agent in the United Kingdom, and
- (b) in respect of which the agent does not act in the course of carrying on a regular agency for the non-UK resident.”

6 After section 835G insert—

**“835H Brokers**

- (1) This section applies if a non-UK resident carries on (alone or in partnership) a business through a broker in the United Kingdom.
- (2) The broker is not the UK representative of the non-UK resident in relation to an amount within section 835E(2) if—
  - (a) the amount is transaction income in relation to a transaction carried out through the broker in the United Kingdom on behalf of the non-UK resident, and
  - (b) the independent broker conditions are met in relation to the transaction (see section 835L).
- (3) In subsection (2) “transaction income”, in relation to a transaction carried out through a broker in the United Kingdom on behalf of a non-UK resident, has the same meaning as in Chapter 1 (see section 814(5)).”

7 After section 835H insert—

**“835I Investment managers**

- (1) This section applies if a non-UK resident carries on (alone or in partnership) a business through an investment manager in the United Kingdom.
- (2) The investment manager is not the UK representative of the non-UK resident in relation to an amount within section 835E(2) if—
  - (a) the amount is transaction income in relation to an investment transaction carried out through the investment manager in the United Kingdom on behalf of the non-UK resident, and
  - (b) the independent investment manager conditions are met in relation to the investment transaction (see section 835M).
- (3) In subsection (2) “transaction income”, in relation to a transaction carried out through an investment manager in the United Kingdom on behalf of a non-UK resident, has the same meaning as in Chapter 1 (see section 814(5)).”

8 After section 835I insert—

**“835J Persons acting under alternative finance arrangements**

- (1) Subsection (2) applies if an amount within section 835E(2) arising to a non-UK resident consists of alternative finance return.
- (2) Neither of the following is the UK representative of the non-UK resident in relation to the amount—
  - (a) the other party to the alternative finance arrangements,
  - (b) any other person acting for the non-UK resident in relation to the alternative finance arrangements.

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(3) In subsection (1) “alternative finance return” means alternative finance return within the application of section 564I, 564K or 564L(2) or (3).

(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) arises.”

9 After section 835J insert—

**“835K Lloyd's agents**

(1) This section applies if—

- (a) a non-UK resident (“X”) is a member of Lloyd's, and
- (b) an amount within section 835E(2) arises to X from X's underwriting business.

(2) A person who has been X's members' agent or the managing agent of the syndicate in question is not the UK representative of X in relation to the amount or to matters connected with the amount.

(3) For the purposes of this section—

- (a) X is a member of Lloyd's if X is a member within the meaning of Chapter 3 of Part 2 of FA 1993, and
- (b) “members' agent” and “managing agent” are to be construed in accordance with section 184 of that Act.”

10 After section 835K insert—

*“The independent broker conditions*

**835L The independent broker conditions**

(1) The independent broker conditions are met in relation to a transaction carried out on behalf of a non-UK resident by a broker in the United Kingdom if conditions A to D are met.

(2) Condition A is that at the time of the transaction the broker is carrying on the business of a broker.

(3) Condition B is that the transaction is carried out in the ordinary course of that business.

(4) 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 is not less than is customary for that class of business.

(5) Condition D is that the broker does not fall (apart from this subsection) to be treated under this Chapter, or under Chapter 1 of Part 7A of TCGA 1992, as a UK representative of the non-UK resident in relation to any amounts that—

- (a) are not included in transaction income in relation to the transaction (see section 835H(2) and (3)), and
- (b) are chargeable to tax for the same tax year as that transaction income.”

*Status: Point in time view as at 01/01/2016.*

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11 After section 835L insert—

*“The independent investment manager conditions*

**835M The independent investment manager conditions**

- (1) The independent investment manager conditions are met in relation to an investment transaction carried out on behalf of a non-UK resident by an investment manager in the United Kingdom if conditions A to E are met.
- (2) Condition A is that at the time of the transaction the investment manager is carrying on a business of providing investment management services.
- (3) Condition B is that the transaction is carried out in the ordinary course of that business.
- (4) Condition C is that, when the investment manager acts on behalf of the non-UK resident 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.
- (5) Condition D is that the requirements of the 20% rule are met (see section 835N).
- (6) 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 is not less than is customary for that class of business.”

12 After section 835M insert—

**“835N 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'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 by 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.”

13 After section 835N insert—



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### **“835O Meaning of “qualifying period”, “relevant disregarded income” and “beneficial entitlement”**

- (1) This section applies for the purposes of this Chapter.
- (2) A “qualifying period” means—
  - (a) the tax year in which the transaction income mentioned in section 835I(2) is chargeable to tax, or
  - (b) a period of not more than 5 years comprising two or more tax years including that one.
- (3) The “relevant disregarded income” of the non-UK resident for a qualifying period is the total of the non-UK resident's income for the tax years comprised in the qualifying period which derives from investment transactions—
  - (a) carried out by the investment manager on the non-UK resident's behalf, and
  - (b) in relation to which the independent investment manager conditions are met, ignoring the requirements of the 20% rule.
- (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—
  - (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.”

14 After section 835O insert—

### **“835P Treatment of transactions where 20% rule not met**

- (1) This section applies in the case of an investment transaction in relation to which the independent investment manager conditions are met, except for the requirements of the 20% rule.
- (2) This Chapter has effect as if the requirements of that rule were met in relation to the transaction, but only in relation to so much of the transaction income in relation to the transaction (see section 835I(2) and (3)) as does not represent an amount—
  - (a) which is relevant disregarded income of the non-UK resident, and
  - (b) to which the investment manager or a person connected with the investment manager has or has had any beneficial entitlement.”

15 After section 835P insert—

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### **“835Q Application of 20% rule to collective investment schemes**

- (1) This section applies if amounts arise or accrue to the non-UK resident 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 tax year in which the transaction income mentioned in section 835I(2) is chargeable to tax, the requirements of the 20% rule are 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 835N to 835P 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 substitute references to the assumed company, and
  - (b) for references to the non-UK resident's relevant disregarded income for a qualifying period substitute references to the sum of the amounts that would, for tax years 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 construed in accordance with that section.”

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### “Supplementary

#### **835R Supplementary provision**

- (1) For the purposes of this Chapter a person is to be 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.”

17 After section 835R insert—

#### **“835S Interpretation of Chapter**

- (1) This section applies for the purposes of this Chapter.
- (2) “Branch or agency” means any factorship, agency, receivership, branch or management.
- (3) “Investment manager” has the same meaning as in Chapter 1 (see section 827).
- (4) “Investment transaction” means any transaction of a description specified for the purposes of this section in regulations made by the Commissioners for Her Majesty's Revenue and Customs.
- (5) Provision made in regulations under subsection (4) may, in particular, have effect in relation to the tax year current on the day on which the regulations are made.”

18 After section 835S insert—

### “CHAPTER 2C

#### INCOME TAX OBLIGATIONS AND LIABILITIES IMPOSED ON UK REPRESENTATIVES

#### **835T Introduction to Chapter**

- (1) This Chapter applies to the enactments relating to income tax so far as they make provision for or in connection with the assessment, collection and recovery of tax, or of interest on tax.
- (2) Those enactments have effect in accordance with section 835U in relation to amounts in respect of which a branch or agency is to be treated as the UK representative of a non-UK resident under Chapter 2B.
- (3) In this section “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.”

19 After section 835T insert—

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### **“835U Obligations and liabilities of UK representative**

- (1) The obligations and liabilities of a non-UK resident are to be treated, for the purposes of the enactments to which this Chapter applies, as if they were also the obligations and liabilities of the UK representative of the non-UK resident.
- (2) Subsection (3) applies if—
  - (a) the UK representative of a non-UK resident discharges an obligation or liability imposed by this section that corresponds to one to which the non-UK resident is subject, or
  - (b) a non-UK resident discharges an obligation or liability that corresponds to one to which the non-UK resident's UK representative is subject by virtue of this section.
- (3) The corresponding obligation or liability—
  - (a) of the non-UK resident (in a case within subsection (2)(a)), or
  - (b) of the UK representative (in a case within subsection (2)(b)),
 is discharged.
- (4) A non-UK resident is bound, as if they were the non-UK resident's own, by acts or omissions of the non-UK resident's UK representative in the discharge of the obligations and liabilities imposed on the representative by this section.
- (5) This section is subject to sections 835V and 835W.”

20 After section 835U insert—

### **“835V Exceptions: notices and information**

- (1) An obligation or liability attaching to a non-UK resident (“X”) by reason of a notice or other document having been given or served on X does not also attach to the UK representative of X by virtue of section 835U unless the notice or other document (or a copy of it) has been given to or served on the representative.
- (2) An obligation or liability attaching to X by reason of a request or demand having been received by X does not also attach to the UK representative of X by virtue of section 835U unless the representative has been notified of the request or demand.
- (3) Subsection (4) applies to obligations relating to the provision of information that are imposed on the UK representative of X by section 835U in a case where the representative is X's independent agent.
- (4) The obligations do not require the UK representative to do anything except so far as it is practicable for the representative to do so.
- (5) For this purpose, the representative must act to the best of the representative's knowledge and belief after taking all reasonable steps to obtain the necessary information.

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- (6) An obligation of X to provide information is not discharged by virtue of section 835U in a case where the UK representative of X has discharged the obligation only so far as required by subsection (4) of this section.
- (7) X is not bound by virtue of section 835U by mistakes in information provided by the UK representative of X in discharging, so far as required under subsection (4) of this section, an obligation imposed on the representative by section 835U unless—
  - (a) the mistake is the result of an act or omission of X, or
  - (b) the mistake is one to which X consented or in which X connived.
- (8) In this section “information” includes anything contained in a return, self-assessment, account, statement or report required to be provided to the Commissioners for Her Majesty’s Revenue and Customs or to any officer of Revenue and Customs.”

21 After section 835V insert—

**“835W Exceptions: criminal offences and penalties etc**

- (1) A person is not by virtue of section 835U liable to be proceeded against for a criminal offence unless the person—
  - (a) committed the offence, or
  - (b) consented to or connived in its commission.
- (2) An independent agent of a non-UK resident is not by virtue of section 835U liable to any civil penalty or surcharge in respect of an act or omission if conditions A and B are met.
- (3) Condition A is that the act or omission is not—
  - (a) an act or omission of the independent agent, or
  - (b) an act or omission to which the agent consented or in which the agent connived.
- (4) Condition B is that the independent agent is able to show that the amount of the penalty or surcharge will not be recoverable out of the sums mentioned in section 835X(3) (after being indemnified for any other liabilities under section 835X).”

22 After section 835W insert—

**“835X Indemnities**

- (1) An independent agent of a non-UK resident is entitled to be indemnified for the amount of any liability of the non-UK resident which the agent has discharged by virtue of section 835U.
- (2) An independent agent of a non-UK resident is entitled to retain, from the sums mentioned in subsection (3), amounts sufficient to meet any liabilities which by virtue of section 835U the agent has discharged or to which the agent is subject.
- (3) The sums are those which—

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- (a) (ignoring subsection (2)) are due from the independent agent to the non-UK resident, or
- (b) are received by the independent agent on behalf of the non-UK resident.”

23 After section 835X insert—

**“835Y Meaning of “independent agent”**

- (1) In this Chapter “independent agent”, in relation to a non-UK resident (“X”), means a person who is the UK representative of X in respect of any agency in which the person is acting on behalf of X in an independent capacity.
- (2) For this purpose a person does not act in an independent capacity on behalf of X unless 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.”

**PART 2**

NEW PART 7A OF TCGA 1992

24 After section 271 of TCGA 1992 insert—

**“PART 7A**

UK REPRESENTATIVES OF NON-UK RESIDENTS

**CHAPTER 1**

TREATMENT OF BRANCH OR AGENCY AS  
UK REPRESENTATIVE OF NON-UK RESIDENT

*Introduction*

**271A Overview of Chapter**

- (1) This Chapter provides for a branch or agency to be treated as the UK representative of a non-UK resident in respect of certain amounts chargeable to capital gains tax.
- (2) For obligations and liabilities in relation to capital gains tax imposed on a branch or agency which under this Chapter is treated as the UK representative of a non-UK resident, see Chapter 2.”

25 After section 271A insert—

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### *“Branches and agencies*

#### **271B Branch or agency treated as UK representative**

- (1) This section applies if—
  - (a) a non-UK resident carries on (alone or in partnership) any trade, profession or vocation through a branch or agency in the United Kingdom, and
  - (b) the branch or agency is to be treated under Chapter 2B of Part 14 of ITA 2007 as the UK representative of the non-UK resident in relation to amounts within section 835E(2) of that Act.
- (2) The branch or agency is the UK representative of the non-UK resident in relation to amounts which, by reference to the branch or agency, are chargeable to capital gains tax under section 10 above.
- (3) The following rules are to be applied for the purposes of subsection (2) and Chapter 2 in relation to an amount within that subsection.
  - Rule 1* The UK representative continues to be the UK representative of the non-UK resident in relation to the amount even after ceasing to be a branch or agency through which the non-UK resident carries on the trade, profession or vocation concerned.
  - Rule 2* The UK representative is treated in relation to the amount as a distinct and separate person from the non-UK resident (if the representative would not otherwise be so treated).
  - Rule 3* If the branch or agency is carried on by persons in partnership, the partnership, as such, is treated in relation to the amount as the UK representative of the non-UK resident.
- (4) For further rules that apply where a trade or profession carried on by a non-UK resident in the United Kingdom is carried on in partnership, see section 271C.”

26 After section 271B insert—

#### **“271C Trade or profession carried on in partnership**

- (1) Subsection (2) applies if a trade or profession carried on by a non-UK resident through a branch or agency in the United Kingdom is carried on by the non-UK resident in partnership.
- (2) The trade or profession carried on through the branch or agency is, for the purposes of section 271B and Chapter 2, to be treated as including the notional trade or profession.
- (3) Subsection (4) applies (in addition to subsection (2) if that subsection also applies) if—
  - (a) a trade or profession carried on by a non-UK resident in the United Kingdom is carried on by the non-UK resident in partnership, and
  - (b) any member of the partnership is resident in the United Kingdom.

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- (4) The notional trade or profession is, for the purposes of section 271B and Chapter 2, to be treated as being a trade carried on in the United Kingdom through the partnership as such.
- (5) In this section “the notional trade or profession” means the notional trade from which the non-UK resident's share in the partnership's profits or losses is treated for the purposes of section 852 of ITTOIA 2005 as deriving.”

27 After section 271C insert—

**“271D Interpretation of Chapter**

In this Chapter—

“branch or agency” means any factorship, agency, receivership, branch or management, and

“non-UK resident” means a person who is not resident in the United Kingdom.”

28 After section 271D insert—

**“CHAPTER 2**

CAPITAL GAINS TAX OBLIGATIONS AND  
LIABILITIES IMPOSED ON UK REPRESENTATIVES

**271E Introduction to Chapter**

- (1) This Chapter applies to the enactments contained in—
  - (a) this Act,
  - (b) the Tax Acts, and
  - (c) subordinate legislation made under this Act or the Tax Acts,
 so far as they make provision for or in connection with the assessment, collection and recovery of tax, or of interest on tax.
- (2) Those enactments have effect in accordance with section 271F in relation to amounts in respect of which a branch or agency is to be treated as the UK representative of a non-UK resident under Chapter 1.
- (3) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978.”

29 After section 271E insert—

**“271F Obligations and liabilities of UK representative**

- (1) The obligations and liabilities of a non-UK resident are to be treated, for the purposes of the enactments to which this Chapter applies, as if they were also the obligations and liabilities of the UK representative of the non-UK resident.
- (2) Subsection (3) applies if—



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- (a) the UK representative of a non-UK resident discharges an obligation or liability imposed by this section that corresponds to one to which the non-UK resident is subject, or
  - (b) a non-UK resident discharges an obligation or liability that corresponds to one to which the non-UK resident's UK representative is subject by virtue of this section.
- (3) The corresponding obligation or liability—
  - (a) of the non-UK resident (in a case within subsection (2)(a)), or
  - (b) of the UK representative (in a case within subsection (2)(b)),is discharged.
- (4) A non-UK resident is bound, as if they were the non-UK resident's own, by acts or omissions of the non-UK resident's UK representative in the discharge of the obligations and liabilities imposed on the representative by this section.
- (5) This section is subject to sections 271G and 271H.”

30 After section 271F insert—

**“271G Exceptions: notices and information**

- (1) An obligation or liability attaching to a non-UK resident (“X”) by reason of a notice or other document having been given or served on X does not also attach to the UK representative of X by virtue of section 271F unless the notice or other document (or a copy of it) has been given to or served on the representative.
- (2) An obligation or liability attaching to X by reason of a request or demand having been received by X does not also attach to the UK representative of X by virtue of section 271F unless the representative has been notified of the request or demand.
- (3) Subsection (4) applies to obligations relating to the provision of information that are imposed on the UK representative of X by section 271F in a case where the representative is X's independent agent.
- (4) The obligations do not require the UK representative to do anything except so far as it is practicable for the representative to do so.
- (5) For this purpose, the representative must act to the best of the representative's knowledge and belief after taking all reasonable steps to obtain the necessary information.
- (6) An obligation of X to provide information is not discharged by virtue of section 271F in a case where the UK representative of X has discharged the obligation only so far as required by subsection (4) of this section.
- (7) X is not bound by virtue of section 271F by mistakes in information provided by the UK representative of X in discharging, so far as required under subsection (4) of this section, an obligation imposed on the representative by section 271F unless—
  - (a) the mistake is the result of an act or omission of X, or
  - (b) the mistake is one to which X consented or in which X connived.

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- (8) In this section “information” includes anything contained in a return, self-assessment, account, statement or report required to be provided to the Commissioners for Her Majesty's Revenue and Customs or to any officer of Revenue and Customs.”

31 After section 271G insert—

**“271H Exceptions: criminal offences and penalties etc**

- (1) A person is not by virtue of section 271F liable to be proceeded against for a criminal offence unless the person—
- (a) committed the offence, or
  - (b) consented to or connived in its commission.
- (2) An independent agent of a non-UK resident is not by virtue of section 271F liable to any civil penalty or surcharge in respect of an act or omission if conditions A and B are met.
- (3) Condition A is that the act or omission is not—
- (a) an act or omission of the independent agent, or
  - (b) an act or omission to which the agent consented or in which the agent connived.
- (4) Condition B is that the independent agent is able to show that the amount of the penalty or surcharge will not be recoverable out of the sums mentioned in section 271I(3) (after being indemnified for any other liabilities under section 271I).”

32 After section 271H insert—

**“271I Indemnities**

- (1) An independent agent of a non-UK resident is entitled to be indemnified for the amount of any liability of the non-UK resident which the agent has discharged by virtue of section 271F.
- (2) An independent agent of a non-UK resident is entitled to retain, from the sums mentioned in subsection (3), amounts sufficient to meet any liabilities which by virtue of section 271F the agent has discharged or to which the agent is subject.
- (3) The sums are those which—
- (a) (ignoring subsection (2)) are due from the independent agent to the non-UK resident, or
  - (b) are received by the independent agent on behalf of the non-UK resident.”

33 After section 271I insert—

**“271J Meaning of “non-UK resident” and “independent agent”**

- (1) In this Chapter “non-UK resident” means a person who is not resident in the United Kingdom.

*Status: Point in time view as at 01/01/2016.*

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- (2) In this Chapter “independent agent”, in relation to a non-UK resident (“X”), means a person who is the UK representative of X in respect of any agency in which the person is acting on behalf of X in an independent capacity.
- (3) For this purpose a person does not act in an independent capacity on behalf of X unless 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.”

## SCHEDULE 7

Section 371

### MISCELLANEOUS RELOCATIONS

#### PART 1

#### RELOCATION OF SECTION 38 OF, AND SCHEDULE 15 TO, FA 1973

##### *Taxes Management Act 1970 (c. 9)*

- 1 TMA 1970 is amended as follows.
- 2 After Part 7 insert—

#### “PART 7A

#### HOLDERS OF LICENCES UNDER THE PETROLEUM ACT 1998

##### *Licence-holders' liabilities for tax assessed on non-UK residents*

#### **Pre-conditions for serving secondary-liability notice**

77B (1) Conditions A to E are the pre-conditions for the purposes of section 77C.

- (2) Condition A is that tax is assessed on a person not resident in the United Kingdom.
- (3) Condition B is that the tax is assessed in reliance on—
  - (a) section 276 of the 1992 Act,
  - (b) section 874 of ITTOIA 2005, or
  - (c) section 1313 of CTA 2009.
- (4) Condition C is that the tax assessed is not tax under ITEPA 2003.
- (5) Condition D is that—
  - (a) there is a licence to which the tax assessed is related (see section 77J for the meaning of tax related to a licence),
  - (b) there is more than one licence to which the tax assessed is related, or

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- (c) there is a licence, or more than one licence, to which part of the tax assessed is related but in addition part of the tax assessed is not related to any licence.
- (6) Condition E is that the tax is not paid in full within 30 days after it becomes due and payable.
- (7) In this Part “licence” means a licence under Part 1 of the Petroleum Act 1998.

### **Secondary-liability notices**

- 77C (1) If each of the pre-conditions (see section 77B) is met, an officer of Revenue and Customs may serve on the holder of the licence concerned, or on the holder of any of the licences concerned, a notice—
- (a) that states particulars of the assessment,
  - (b) that states the amount remaining unpaid and the date when it became payable,
  - (c) that requires the holder to pay, within 30 days of the service of the notice, the amount for which the holder is liable, and
  - (d) that, if the amount for which the holder is liable is given by subsection (3) or section 77G(7), gives particulars of how the amount was determined.
- (2) For the purposes of subsection (1), the amount for which the holder is liable is the amount remaining unpaid, together with any interest on it under sections 86 and 87A, but this is subject to subsection (3) and section 77G(7).
- (3) In a case within section 77B(5)(b) or (c), the amount for which the holder of the licence is liable is given by—

$$\frac{16 - N}{15}$$

- (4) In subsection (3)—
- A is the amount remaining unpaid,
  - I is any interest due on that amount under sections 86 and 87A,
  - T is the total amount of the profits or chargeable gains in respect of which the assessment is made, and
  - L is so much of that total amount as is profits or chargeable gains related to the licence.
- (5) The power under subsection (1) is subject to section 77E (certain pre-1974 cases).
- (6) In this Part “secondary-liability notice” means a notice under subsection (1).

### **Payments under secondary-liability notices**

- 77D(1) Any amount which a person is required to pay by a secondary-liability notice may be recovered from the person as if it were tax due and duly demanded from the person.

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- (2) If a person (“H”) pays any amount which a secondary-liability notice requires H to pay, H may recover the amount from the person on whom the assessment concerned was made.
- (3) A payment in pursuance of a secondary-liability notice is not allowed as a deduction in calculating any income, profits or losses for any tax purposes.

### **Exception for certain pre-1974 cases**

77E (1) Section 77C(1) does not give power to serve a secondary-liability notice on the holder of a licence if the profits arose, or the chargeable gains accrued, to the assessed person in consequence of a contract made by the holder before 23 March 1973.

- (2) The exception under subsection (1) does not apply if—
  - (a) the assessed person is connected with the holder, or
  - (b) the contract was substantially varied on or after 23 March 1973.
- (3) For the purposes of subsection (2), whether a person is connected with another is determined in accordance with section 1122 of CTA 2010.”

3 After section 77E insert—

#### *“Exemption certificates*

### **77F Issue, cancellation and effect of exemption certificates**

- (1) This section applies if there is a person (“T”) who will or might become liable to tax which, if unpaid, could be recovered under this Part from a person (“H”) who is the holder of a licence.
- (2) If an officer of Revenue and Customs, on an application made by T, is satisfied that T will comply with any obligations imposed on T by the Taxes Acts, the officer may issue to H a certificate exempting H from section 77C with respect to any tax payable by T.
- (3) If a certificate is issued to H under subsection (2), an officer of Revenue and Customs may, by notice in writing to H, cancel the certificate from the date specified in the notice.
- (4) The date specified in a notice under subsection (3) may not be earlier than 30 days after the service of the notice.
- (5) If a certificate is issued to H under subsection (2), section 77C does not apply to any tax payable by T which becomes due while the certificate is in force.
- (6) If a certificate is issued to H under subsection (2) but is subsequently cancelled under subsection (3), section 77C also does not apply to any tax payable by T which—
  - (a) becomes due after the certificate is cancelled, but
  - (b) is in respect of profits arising, or chargeable gains accruing, while the certificate is in force.

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### **77G Liabilities for assessments made after exemption certificate cancelled**

- (1) Subsection (7) applies if—
- (a) each of conditions A to C is met, and
  - (b) one of conditions D and E is met.
- (2) Condition A is that, after the cancellation under section 77F(3) of a certificate issued under section 77F(2) to a person (“H”) who is the holder of a licence, tax related to the licence is assessed on the applicant for the certificate.
- (3) Condition B is that the tax is assessed in reliance on—
- (a) section 276 of the 1992 Act,
  - (b) section 874 of ITTOIA 2005, or
  - (c) section 1313 of CTA 2009.
- (4) Condition C is that the tax assessed is not tax under ITEPA 2003.
- (5) Condition D is that—
- (a) ignoring section 77F, H could be required by a secondary-liability notice to pay all of the tax remaining unpaid under the assessment, and
  - (b) the profits or chargeable gains in respect of which the assessment is made include (but are not limited to) profits arising, or chargeable gains accruing, while the certificate is in force.
- (6) Condition E is that—
- (a) as a result of section 77C(3), but ignoring section 77F, H could be required by a secondary-liability notice to pay some, but not all, of the tax remaining unpaid under the assessment, and
  - (b) the profits or chargeable gains that are—
    - (i) ones in respect of which the assessment is made, and
    - (ii) related to the licence,
 include (but are not limited to) profits arising, or chargeable gains accruing, while the certificate is in force.
- (7) If this subsection applies then, for the purposes of section 77C(1), the amount for which the holder of the licence is liable is the amount given by—

$$A \times \left( 1 - \frac{CIF}{CIF + NIF} \right)$$

together with a corresponding proportion of any interest due under sections 86 and 87A on the amount remaining unpaid.

- (8) In subsection (7)—

A is the amount that H could be required to pay as mentioned in paragraph (a) of whichever of conditions D and E is met (“the operative condition”),

CIF is the amount of the profits or chargeable gains mentioned in paragraph (b) of the operative condition that are ones arising, or accruing, while the certificate is in force, and

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NIF is the amount of the profits or chargeable gains mentioned in paragraph (b) of the operative condition that are ones arising, or accruing, while the certificate is not in force.”

4 After section 77G insert—

*“Supplementary*

**77H Calculations under sections 77C(3) and 77G(7)**

- (1) Subsection (2) applies for the purposes of calculating any of the following amounts of profits or chargeable gains—
  - (a) L in a calculation under section 77C(3),
  - (b) CIF in a calculation under section 77G(7), and
  - (c) CIF + NIF in a calculation under section 77G(7) when it is condition E in section 77G that is met.
- (2) The amount is to be calculated as if for the purposes of making a separate assessment in respect of those profits or chargeable gains on the person on whom the assessment was made.
- (3) An officer of Revenue and Customs applying subsection (2) is to make all such allocations and apportionments of receipts, expenses, allowances and deductions taken into account, or made, for the purposes of the actual assessment as appear to the officer to be just and reasonable in the circumstances.

**77I Information**

- (1) The holder of a licence must, if required to do so by a notice served on the holder by an officer of Revenue and Customs, give to the officer within the time specified by the notice (which is not to be less than 30 days) such particulars as may be required by the notice of—
  - (a) licence-related transactions (see subsection (2)),
  - (b) licence-related payments (see subsection (3)), or
  - (c) persons to whom licence-related payments have been paid or are payable.
- (2) In subsection (1) “licence-related transaction” means a transaction in connection with activities authorised by the licence as a result of which any person is or might be liable to tax by virtue of—
  - (a) section 276 of the 1992 Act,
  - (b) section 874 of ITTOIA 2005, or
  - (c) section 1313 of CTA 2009.
- (3) In subsection (1) “licence-related payment” means—
  - (a) earnings which constitute employment income (see section 7(2)(a) of ITEPA 2003),
  - (b) amounts which are treated as earnings and constitute employment income (see section 7(2)(b) of ITEPA 2003), or
  - (c) other payments,

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paid or payable in respect of duties or services performed in an area in which activities authorised by the licence may be carried on under the licence.

- (4) If a notice under subsection (1) is served on the holder of a licence, the holder must take reasonable steps to obtain the information necessary to enable the holder to comply with the notice.

### **77J Meaning of “related to a licence” as respects tax, or profits or gains**

- (1) Subsections (2) and (3) apply for the purposes of this Part.
- (2) An amount of tax is related to a licence if the tax is in respect of profits or chargeable gains related to the licence.
- (3) Profits or chargeable gains are related to a licence if they are—
- (a) profits from activities authorised by the licence,
  - (b) profits from activities carried on in connection with activities authorised by the licence, or
  - (c) profits from, or chargeable gains accruing on the disposal of, exploration or exploitation rights connected with—
    - (i) activities authorised by the licence, or
    - (ii) activities carried on in connection with activities authorised by the licence.
- (4) In this section—
- (a) “designated area” means an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964,
  - (b) “exploration or exploitation activities” means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area,
  - (c) “exploration or exploitation rights” means rights to—
    - (i) assets to be produced by exploration or exploitation activities,
    - (ii) interests in such assets, or
    - (iii) the benefit of such assets,
  - (d) any reference to the disposal of exploration or exploitation rights includes a reference to the disposal of unlisted shares deriving their value, or the greater part of their value, directly or indirectly from such rights,
  - (e) “shares” includes—
    - (i) stock, and
    - (ii) securities not creating or evidencing a charge on assets,
  - (f) “unlisted shares” means shares that are not listed on a recognised stock exchange, and
  - (g) “recognised stock exchange” has the meaning given by section 1005(1) and (2) of ITA 2007.

### **77K Other definitions in Part 7A**

- (1) This section applies for the purposes of this Part.



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(2) “Licence” has the meaning given by section 77B(7).

(3) “Secondary-liability notice” has the meaning given by section 77C(6).”

5 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.

(2) Omit the entry for paragraph 2 of Schedule 15 to FA 1973.

(3) After the entry for regulations under section 59E of TMA 1970 insert—

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“Section 77I(1) of this Act.”

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*Finance Act 1973 (c. 51)*

6 FA 1973 is amended as follows.

7 Omit section 38 (which introduces and interprets Schedule 15).

8 Omit Schedule 15 (territorial extension of charge to tax: supplementary provisions).

*Oil Taxation Act 1975 (c. 22)*

9 The Oil Taxation Act 1975 is amended as follows.

10 In section 3(4) (expenditure not allowable under the section) for paragraph (f) (which refers to notices under paragraph 4 of Schedule 15 to FA 1973), and the “or” preceding it, substitute “or

(f) any payment made in pursuance of a notice under section 77C of the Taxes Management Act 1970 (notice requiring licence-holder to pay unpaid tax assessed on non-UK resident);”.

**PART 2**

RELOCATION OF SECTION 24 OF FA 1974

*Taxes Management Act 1970 (c. 9)*

11 TMA 1970 is amended as follows.

12 In section 8 (personal return) after subsection (4) insert—

“(4A) Subsection (4B) applies if a notice under this section is given to a person within section 8ZA of this Act (certain persons employed etc by person not resident in United Kingdom who perform their duties for UK clients).

(4B) The notice may require a return of the person's income to include particulars of any general earnings (see section 7(3) of ITEPA 2003) paid to the person.”

13 After section 8 insert—

**“8ZA Interpretation of section 8(4A)**

(1) For the purposes of section 8(4A) of this Act, a person (“F”) is within this section if each of conditions A to C is met.

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- (2) Condition A is that F performs in the United Kingdom, for a continuous period of 30 days or more, duties of an office or employment.
- (3) Condition B is that the office or employment is under or with a person who—
  - (a) is not resident in the United Kingdom, but
  - (b) is resident outside the United Kingdom.
- (4) Condition C is that the duties are performed for the benefit of a person who—
  - (a) is resident in the United Kingdom, or
  - (b) carries on a trade, profession or vocation in the United Kingdom.”

14 After section 15 insert—

**“15A Non-resident's staff are UK client's employees for section 15 purposes**

- (1) Subsection (5) applies if each of conditions A to C is met.
- (2) Condition A is that a person (“F”) performs in the United Kingdom, for a continuous period of 30 days or more, duties of an office or employment.
- (3) Condition B is that the office or employment is under or with a person who—
  - (a) is not resident in the United Kingdom, but
  - (b) is resident outside the United Kingdom.
- (4) Condition C is that the duties are performed for the benefit of a person (“P”) who—
  - (a) is resident in the United Kingdom, or
  - (b) carries on a trade, profession or vocation in the United Kingdom.
- (5) Section 15 of this Act applies as if P were F's employer, but only so as to enable P to be required to make a return of F's name and place of residence.”

*Finance Act 1974 (c. 30)*

15 FA 1974 is amended as follows.

16 Omit section 24 (returns of persons treated as employees).

**PART 3**

RELOCATION OF SECTION 42 OF ICTA

*Taxes Management Act 1970 (c. 9)*

17 TMA 1970 is amended as follows.

- 18 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.
- (2) Omit the entry for section 42 of ICTA.
- (3) Before the entry for section 647 of ITTOIA 2005 insert—

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“Section 302B of ITTOIA 2005.”

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*Income and Corporation Taxes Act 1988 (c. 1)*

- 19 ICTA is amended as follows.
- 20 Omit section 42 (appeals against determinations under Chapter 4 of Part 3 of ITTOIA 2005).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 21 ITTOIA 2005 is amended as follows.
- 22 After section 302 insert—

*“Determinations affecting liability of more than one person*

**302A Appeals against proposed determinations**

- (1) Subsection (2) applies if it appears to an officer of Revenue and Customs that—
- (a) a determination is needed of an amount that is to be brought into account as a receipt under this Chapter in calculating the liability to tax of a person (“the first taxpayer”), and
  - (b) the determination may affect the liability to income tax, corporation tax or capital gains tax of other persons.
- (2) The officer may give notice (a “provisional notice of determination”) to the first taxpayer and the other persons of—
- (a) the determination the officer proposes to make, and
  - (b) their rights under this section and section 302C.
- (3) A person to whom a provisional notice of determination is given may object to the proposed determination by giving notice (a “notice of objection”) to the officer.
- (4) The notice of objection must be given within 30 days of the date on which the provisional notice of determination was given.
- (5) If an officer gives provisional notices of determination and no person gives a notice of objection—
- (a) a determination must be made by the officer as proposed in the provisional notices, and
  - (b) the determination is not to be called in question in any proceedings.

**302B Section 302A: supplementary**

- (1) A provisional notice of determination under section 302A(2) may include a statement of the grounds on which the officer proposes to make the determination.
- (2) Subsection (1) applies despite any obligation as to secrecy or other restriction on the disclosure of information.
- (3) An officer of Revenue and Customs may by notice (“a preliminary notice”) require any person to give any information that appears to the officer to

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be needed for deciding whether to give any person a provisional notice of determination under section 302A(2).

- (4) The preliminary notice must state the time within which the information is to be given.

### **302C Determination by tribunal**

- (1) If a notice of objection is given under section 302A(3), the amount mentioned in section 302A(1) must be determined in the same way as an appeal.
- (2) All persons to whom provisional notices of determination have been given under section 302A(2) may be a party to—
- (a) any proceedings under subsection (1), and
  - (b) any appeal arising out of those proceedings.
- (3) Those persons are bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings.
- (4) Their successors in title are bound in the same way.”

#### *Corporation Tax Act 2009 (c. 4)*

23 CTA 2009 is amended as follows.

- 24 In section 242(2) (determination by tribunal) for the words from “take part” to the end substitute “be a party to—
- (a) any proceedings under subsection (1), and
  - (b) any appeal arising out of those proceedings.”

## **PART 4**

### RELOCATION OF SECTION 84A OF ICTA

#### *Income and Corporation Taxes Act 1988 (c. 1)*

25 ICTA is amended as follows.

- 26 Omit section 84A (costs of establishing share option or profit sharing scheme: relief).

#### *Income Tax (Trading and Other Income) Act 2005 (c. 5)*

27 ITTOIA 2005 is amended as follows.

- 28 In Chapter 5 of Part 2, after section 94 insert—

*“SAYE option schemes, CSOP schemes*

### **94A Costs of setting up SAYE option scheme or CSOP scheme**

- (1) This section applies if—

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- (a) a company incurs expenses in setting up a scheme within subsection (2) that is approved by an officer of Revenue and Customs, and
  - (b) no employee or director acquires rights under the scheme before it is approved.
- (2) The schemes within this subsection are—
- (a) SAYE option schemes within the meaning of the SAYE code (see section 516(4) of ITEPA 2003), and
  - (b) CSOP schemes within the meaning of the CSOP code (see section 521(4) of ITEPA 2003).
- The references in subsection (1) to a scheme being approved are to it being approved under Schedule 3 or 4 to ITEPA 2003 (as the case may be).
- (3) A deduction for the expenses is to be made in calculating the profits of a trade carried on by the company.
- (4) If the approval is given more than 9 months after the end of the period of account in which the expenses are incurred, for the purposes of subsection (3) the deduction is to be made for the period of account in which the approval is given.”
- 29 In section 272(2) (profits of property business: application of trading income rules) at the appropriate place insert—

---

“section 94A costs of setting up SAYE option scheme or CSOP scheme”.

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## PART 5

### RELOCATION OF SECTION 152 OF ICTA

*Taxes Management Act 1970 (c. 9)*

- 30 TMA 1970 is amended as follows.
- 31 (1) Amend section 48 (application of following provisions of Part 5) as follows.
- (2) In subsection (2)(a) (application to appeals other than appeals against assessments) for “section 56” substitute “ sections 54A to 54C and 56 ”.
  - (3) In subsection (3) (meaning of “relevant provisions” for purpose of application to proceedings other than appeals) after “except sections 49A to 49I” insert “ and 54A to 54C ”.
- 32 After section 54 insert—

#### **“54A No questioning in appeal of amounts of certain social security income**

- (1) Subsection (2) applies if an amount is notified under section 54B(1) and—
  - (a) no objection is made to the notification within 60 days after its date of issue, or such further period as may be allowed under section 54B(4) and (5), or
  - (b) an objection is made but is withdrawn by the objector by notice.

*Status: Point in time view as at 01/01/2016.*

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- (2) The amount is not to be questioned in any appeal against any assessment in respect of income including the amount.
- (3) Subsection (4) applies if an amount is notified under section 54B(1) and—
  - (a) an objection is made to the notification within 60 days after its date of issue, or such further period as may be allowed under section 54B(4) and (5),
  - (b) the appropriate officer and the objector come to an agreement that the amount notified should be varied in a particular manner, and
  - (c) the officer confirms that agreement in writing.
- (4) The amount, as varied, is not to be questioned in any appeal against any assessment in respect of income including that amount.
- (5) Subsection (4) does not apply if, within 60 days from the date when the agreement was come to, the objector gives to the appropriate officer notice that the objector wishes to repudiate or resile from the agreement.

#### **54B Notifications of taxable amounts of certain social security income**

- (1) The appropriate officer may by notice notify a person who is liable to pay any income tax charged on any unemployment benefit, jobseeker's allowance or income support—
  - (a) of the amount on which the tax is charged, or
  - (b) of an alteration in an amount previously notified under paragraph (a) or this paragraph.
- (2) A notification under subsection (1) must—
  - (a) state its date of issue, and
  - (b) state that the person notified may object to the notification by notice given within 60 days after that date.
- (3) A notification under subsection (1)(b) cancels the previous notification concerned.
- (4) An objection to a notification under subsection (1) may be made later than 60 days after its date of issue if, on an application for the purpose—
  - (a) the appropriate officer is satisfied—
    - (i) that there was a reasonable excuse for not objecting before the end of the 60 days, and
    - (ii) that the application was made without unreasonable delay after the end of the 60 days, and
  - (b) the officer gives consent in writing.
- (5) If the officer is not so satisfied, the officer is to refer the application for determination by the tribunal.

#### **54C Interpretation of sections 54A and 54B: “appropriate officer” etc**

- (1) In sections 54A and 54B “the appropriate officer” means the appropriate officer—
  - (a) in Great Britain, of the Department for Work and Pensions, and

*Status: Point in time view as at 01/01/2016.*

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(b) in Northern Ireland, of the Department for Social Development.

(2) Section 48(1)(a) (meaning of “appeal” in the following provisions of Part 5) does not apply for the purposes of sections 54A and 54B.”

*Income and Corporation Taxes Act 1988 (c. 1)*

33 ICTA is amended as follows.

34 Omit section 152 (notification of taxable amount of certain benefits).

**PART 6**

RELOCATION OF SECTION 337A(2) OF ICTA

*Income and Corporation Taxes Act 1988*

35 ICTA is amended as follows.

36 Omit section 6(5) (signpost to Part 8 of the Act).

37 Omit section 337A(2) (in calculating a company's income, deductions in respect of interest to be made only under Part 5 of CTA 2009).

*Corporation Tax Act 2009 (c. 4)*

38 CTA 2009 is amended as follows.

39 After section 1301 insert—

**“1301A Restriction of deductions for interest**

In calculating a company's income from any source for corporation tax purposes, no deduction is allowed for interest otherwise than under Part 5 (loan relationships).”

**PART 7**

RELOCATION OF SECTION 475 OF ICTA

*Income and Corporation Taxes Act 1988 (c. 1)*

40 ICTA is amended as follows.

41 Omit section 475 (tax-free Treasury securities: exclusion of interest on borrowed money).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

42 ITTOIA 2005 is amended as follows.

43 Before section 155 (before the italic cross-heading) insert—

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### **Certain non-UK residents with interest on 3½% War Loan 1952 Or After**

“154A) This section applies if—

- (a) in any tax year a person who is not ordinarily resident in the United Kingdom carries on a trade there—
  - (i) consisting of banking or insurance, or
  - (ii) consisting wholly or partly of dealing in securities, and
- (b) in calculating the profits of the trade for the tax year any amount is disregarded as a result of section 714 (exemption of profits from FOTRA securities) because of a condition subject to which any 3½% War Loan 1952 Or After was issued.

(2) Interest on money borrowed for the purposes of the trade is to be deducted in calculating the profits of the trade of that tax year only so far as it exceeds the ineligible amount.

(3) The ineligible amount is found as follows—

*Step 1* Add together all sums borrowed for the purposes of the trade and still owing in the basis period for the tax year.

*Step 2* If the person carrying on the trade is a company, deduct any sums carrying interest which is not deducted in calculating the profits of the trade (otherwise than because of subsection (2)).

*Step 3* If the amount found at Step 2 exceeds the total cost of the 3½% War Loan 1952 Or After held for the purposes of the trade in the basis period, deduct the excess from that amount.

*Step 4* Calculate the average rate of interest in the basis period on money borrowed for the purposes of the trade.

*Step 5* Calculate the amount of interest payable on the amount found at Step 3 at the rate found at Step 4 for the basis period.

The result is the ineligible amount.

(4) If the person's holding of 3½% War Loan 1952 Or After has fluctuated during the basis period, the total cost for the purposes of Step 3 is taken to be—

$$C \times \frac{AH}{TH}$$

where—

C is the cost of acquisition of the initial holding (if any) and any holdings acquired during the basis period,

AH is the average holding in that period, and

TH is the total of the initial holding (if any) and any holdings acquired during the basis period.

(5) In subsection (4) “initial holding” means the holding held by the person at the beginning of the basis period.”



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## PART 8

### RELOCATION OF SECTION 700 OF ICTA

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 44 ICTA is amended as follows.  
45 Omit section 700 (adjustments and information).

#### *Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 46 ITTOIA 2005 is amended as follows.  
47 After section 682 (assessments, adjustments and claims after the administration period) insert—

#### **“682A Statements relating to estate income**

- (1) If a person within subsection (2) requests it in writing, a personal representative of a deceased person must provide the person with a statement showing—
- (a) the amount treated as estate income arising from the person's interest in the whole or part of the deceased person's estate for which the person is liable to income tax for a tax year, and
  - (b) the amount of any tax at the applicable rate which any such amount is treated as having borne.
- (2) A person is within this subsection if—
- (a) the person has or has had an absolute or limited interest in the whole or part of the residue of the estate, or
  - (b) estate income has arisen to the person from a discretionary interest the person has or has had in the whole or part of the residue of the estate.
- (3) A statement under subsection (1) must be in writing.
- (4) The duty to comply with a request under this section is enforceable by the person who made it.”

## PART 9

### RELOCATION OF SECTION 787 OF ICTA

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 48 ICTA is amended as follows.  
49 Omit section 787 (restriction of relief for payments of interest).

#### *Income Tax Act 2007 (c. 3)*

- 50 ITA 2007 is amended as follows.

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- 51 In section 2(13) (overview of Part 13) after paragraph (h) (which is inserted by Schedule 8) insert—
- “(i) leases of plant and machinery (Chapter 6), and  
(j) tax relief for interest (Chapter 7).”
- 52 After section 809ZF (which is inserted by CTA 2010) insert—

## “CHAPTER 7

### AVOIDANCE INVOLVING OBTAINING TAX RELIEF FOR INTEREST

#### **809ZG Tax relief schemes and arrangements**

- (1) Relief is not to be given under any provision of the Income Tax Acts to a person in respect of a payment of interest if a tax relief scheme has been effected, or tax relief arrangements have been made, in relation to the transaction under which the interest is paid.
- (2) Subsection (1) applies whether the tax relief scheme is effected, or the tax relief arrangements are made, before or after the transaction.
- (3) A scheme is a tax relief scheme in relation to a transaction for the purposes of subsection (1) if it is such that the sole or main benefit that might be expected to accrue to the person from the transaction is the obtaining of a reduction in tax liability by means of relief under the Income Tax Acts.
- (4) Arrangements are tax relief arrangements in relation to a transaction for the purposes of subsection (1) if they are such that the sole or main benefit that might be expected to accrue to the person from the transaction is the obtaining of a reduction in tax liability by means of relief under the Income Tax Acts.
- (5) In this section “relief” means relief by way of—
  - (a) deduction in calculating profits or gains, or
  - (b) deduction or set off against income.”

## PART 10

### RELOCATION OF SECTIONS 130 TO 132 OF FA 1988

*Taxes Management Act 1970 (c. 9)*

- 53 TMA 1970 is amended as follows.
- 54 After section 109A insert—

*“Companies ceasing to be UK resident*

#### **109B Provisions for securing payment by company of outstanding tax**

- (1) Each of conditions A to D must be met before a company ceases to be resident in the United Kingdom.

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- (2) Condition A is that the company gives to the Commissioners for Her Majesty's Revenue and Customs notice of its intention to cease to be resident in the United Kingdom.
- (3) Condition B is that the notice specifies the time (“the migration time”) when the company intends to cease to be resident in the United Kingdom.
- (4) Condition C is that the company gives to the Commissioners—
  - (a) a statement of the amount which, in its opinion, is the amount of the tax which is or will be payable by it in respect of periods beginning before the migration time, and
  - (b) particulars of the arrangements which it proposes to make for securing the payment of that tax.
- (5) Condition D is that—
  - (a) arrangements are made by the company for securing the payment of the tax which is or will be payable by it in respect of periods beginning before the migration time, and
  - (b) those arrangements, as made by the company, are approved for the purposes of this subsection by the Commissioners.
- (6) If any question arises as to the amount which, for the purposes of subsection (5), should be regarded as the amount of tax which is or will be payable by the company in respect of periods beginning before the migration time, that question is to be referred to the tribunal.
- (7) A decision of the tribunal under subsection (6) is final, despite sections 11 and 13 of the TCEA 2007 (appeals from tribunal decisions).
- (8) If any information furnished by the company for the purpose of securing the Commissioners' approval under subsection (5) does not fully and accurately disclose all facts and considerations material for the Commissioners' decision under that subsection, any resulting approval is void.

#### **109C Penalty for company's failure to comply with section 109B**

If a company ceases to be resident in the United Kingdom at a time before each of conditions A to D in section 109B is met, the company is liable to a penalty not exceeding the amount of tax—

- (a) which is or will be payable by it in respect of periods beginning before that time, and
- (b) which has not been paid at that time.

#### **109D Penalty for other persons if company fails to comply with section 109B**

- (1) Subsection (5) applies if—
  - (a) condition E is met, and
  - (b) either of conditions F and G is met.
- (2) Condition E is that in relation to a company (“the migrating company”) any person (“P”) does or is party to the doing of any act which to P's knowledge amounts to or results in, or forms part of a series of acts which together amount to or result in, or will amount to or result in, the migrating company

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ceasing to be resident in the United Kingdom at a time before each of conditions A to D in section 109B is met.

- (3) Condition F is that P is—
  - (a) a director of the migrating company,
  - (b) a company which has control of the migrating company, or
  - (c) a director of a company which has control of the migrating company.
- (4) Condition G is that the act mentioned in subsection (2) is a direction or instruction given—
  - (a) to persons within subsection (3), but
  - (b) otherwise than by way of advice given by a person acting in a professional capacity.
- (5) If this subsection applies, P is liable to a penalty not exceeding the amount of tax—
  - (a) which is or will be payable by the migrating company in respect of periods beginning before the time mentioned in subsection (2), and
  - (b) which has not been paid at that time.
- (6) Subsections (7) and (8) apply for the purposes of any proceedings against a person within subsection (3) for the recovery of a penalty under subsection (5).
- (7) It is to be presumed that the person was party to every act of the migrating company unless the person proves that it was done without the person's consent or connivance.
- (8) It is to be presumed, unless the contrary is proved, that any early-migration act was to the person's knowledge an early-migration act.
- (9) In subsection (8) “early-migration act” means an act which in fact amounted to or resulted in, or formed part of a series of acts which together amounted to or resulted in, or would amount to or result in, the migrating company ceasing to be resident in the United Kingdom at a time before each of conditions A to D in section 109B is met.

### **109E Liability of other persons for unpaid tax**

- (1) This section applies if—
  - (a) a company (“the migrating company”) ceases to be resident in the United Kingdom at any time, and
  - (b) any tax which is payable by the company in respect of periods beginning before that time is not paid within 6 months from the time when it becomes payable.
- (2) The Commissioners for Her Majesty's Revenue and Customs may, at any time before the end of the period of 3 years beginning with the time when the amount of the tax is finally determined, serve on any person within subsection (3) a notice—
  - (a) stating particulars of the tax payable, the amount remaining unpaid and the date when it became payable, and
  - (b) requiring that person to pay that amount within 30 days of the service of the notice.

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- (3) The persons within this subsection are—
- (a) any company which is, or within the pre-migration year was, a member of the same group as the migrating company,
  - (b) any person who is, or within the pre-migration year was, a controlling director of the migrating company, and
  - (c) any person who is, or within the pre-migration year was, a controlling director of a company which has, or within the pre-migration year had, control over the migrating company.
- (4) Any amount which a person is required to pay by a notice under this section may be recovered from the person as if it were tax due and duly demanded from the person.
- (5) If a person (“P”) pays any amount which a notice under this section requires P to pay, P may recover the amount from the migrating company.
- (6) A payment in pursuance of a notice under this section is not allowed as a deduction in calculating any income, profits or losses for any tax purposes.
- (7) In this section—
- “controlling director”, in relation to a company, means a director of the company who has control of the company,
  - “group” has the meaning which would be given by section 170 of the 1992 Act if in that section for references to 75 per cent subsidiaries there were substituted references to 51 per cent subsidiaries, and
  - “pre-migration year” means the period of 12 months ending with the time when the migrating company ceases to be resident in the United Kingdom.

#### **109F Interpretation of sections 109B to 109E**

- (1) In sections 109B to 109E, any reference to the tax payable by a company includes a reference to—
- (a) any amount which the company is liable to pay under section 77C (territorial extension of charge to tax),
  - (b) any amount of tax which the company is liable to pay under regulations made under section 684 of ITEPA 2003 (PAYE),
  - (c) any amount which the company is liable to pay under sections 61 and 62(1)(a) of the Finance Act 2004 (sub-contractors in the construction industry),
  - (d) any income tax which the company is liable to pay in respect of payments within section 946 of ITA 2007 (collection of tax: deposit-takers, building societies and certain companies), and
  - (e) any amount representing income tax which the company is liable to pay under section 966 of ITA 2007 (entertainers and sportsmen).
- (2) In sections 109B to 109E read in accordance with subsection (1), any reference to the tax payable by a company in respect of periods beginning before any particular time includes a reference to any interest—
- (a) on the tax so payable, or
  - (b) on tax paid by the company in respect of such periods,

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which the company is liable to pay in respect of periods beginning before or after that time.

- (3) In sections 109B to 109E “director”, in relation to a company, is to be read in accordance with the following provisions—
- (a) section 67(1) and (2) of ITEPA 2003, and
  - (b) section 452 of CTA 2010.
- (4) In sections 109B to 109E, any reference to a person having control of a company is to be read in accordance with sections 450 and 451 of CTA 2010.”

*Finance Act 1988 (c. 39)*

- 55 FA 1988 is amended as follows.
- 56 Omit sections 130 to 132 (company migration).

**PART 11**

RELOCATION OF SECTION 151 OF FA 1989

*Taxes Management Act 1970 (c. 9)*

- 57 TMA 1970 is amended as follows.
- 58 After section 30A insert—

**“30AA Assessing income tax on trustees and personal representatives**

- (1) Income tax charged on income arising to trustees of a settlement may be assessed and charged on, and in the name of, any one or more of the assessable trustees.
- (2) Income tax charged on income arising to the personal representatives of a deceased person may be assessed and charged on, and in the name of, any one or more of the assessable representatives.
- (3) In subsection (1) “the assessable trustees” means—
- (a) the trustees of the settlement in the tax year in which the income arises, and
  - (b) any subsequent trustees of the settlement.
- (4) In subsection (2) “the assessable representatives” means—
- (a) the persons who, in the tax year in which the income arises, are personal representatives of the deceased person, and
  - (b) any subsequent personal representatives of the deceased person.”

*Finance Act 1989 (c. 26)*

- 59 FA 1989 is amended as follows.
- 60 Omit section 151 (assessment of trustees and personal representatives).

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*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 61 ITTOIA 2005 is amended as follows.
- 62 In Schedule 2 (transitionals and savings etc) omit paragraph 91 (interpretation of section 151(2) of FA 1989).

**PART 12**

RELOCATION OF SCHEDULE 12 TO F(No.2)A 1992  
SO FAR AS APPLYING FOR INCOME TAX PURPOSES

*Finance (No.2) Act 1992 (c. 48)*

- 63 F(No.2)A 1992 is amended as follows.
- 64 Omit section 66 (which introduces Schedule 12).
- 65 Omit Schedule 12 (banks etc in compulsory liquidation).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 66 ITTOIA 2005 is amended as follows.
- 67 In section 369 (charge to tax on interest) after subsection (4) insert—
- “(5) See also Chapter 3A of Part 14 of ITA 2007 (which provides for the receipts of certain types of company being wound up to be charged to income tax under that Chapter instead of under any other provision that would otherwise apply).”

*Income Tax Act 2007 (c. 3)*

- 68 ITA 2007 is amended as follows.
- 69 In section 2(14) (overview of Act: Part 14) after paragraph (c) insert “, and  
(d) imposition of the charge to income tax on the receipts of certain types of company being wound up (Chapter 3A).”
- 70 In section 3(2) (overview of charges to income tax)—
- (a) omit the “and” immediately before paragraph (e), and
- (b) after paragraph (e) insert “, and  
(f) Chapter 3A of Part 14 of this Act (banks etc in compulsory liquidation).”
- 71 After section 837 insert—

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## “CHAPTER 3A

### BANKS ETC IN COMPULSORY LIQUIDATION

#### 837A Overview of Chapter

- (1) This Chapter provides for the receipts of certain types of company being wound up to be charged to income tax.
- (2) For provision charging the receipts of such companies to corporation tax, see Chapter 6 of Part 13 of CTA 2010.

#### 837B Application of Chapter

- (1) This Chapter applies if—
  - (a) a company is being or has been wound up by the court in the United Kingdom, and
  - (b) conditions A, B and C are met.
- (2) Condition A is that the company was, at any time within the period mentioned in subsection (5), lawfully carrying on a business of accepting deposits as—
  - (a) a person of the kind mentioned in paragraph (b) of the definition of “bank” in section 991(2) (persons with permission under Part 4 of FISMA 2000 to accept deposits), or
  - (b) a permitted EEA credit institution.
- (3) Condition B is that the company has permanently ceased to carry on the trade that included the business of accepting deposits (the “deposit-taking trade”).
- (4) Condition C is that the company is insolvent and—
  - (a) was so when the winding up proceedings started, or
  - (b) became so at any time in the period of 12 months following the day on which those proceedings started.
- (5) The period referred to in subsection (2) is the period of 12 months ending with the earlier of—
  - (a) the day on which the winding up proceedings started, and
  - (b) the day on which the company permanently ceased to carry on the deposit-taking trade.
- (6) In subsection (2)(b) a “permitted EEA credit institution” means an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to FISMA 2000 (credit institutions authorised by home state regulator) which has permission to accept deposits under paragraph 15 of that Schedule.

#### 837C Charge to income tax on winding up receipts

- (1) Winding up receipts arising from the deposit-taking trade are chargeable to income tax.



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- (2) Subsection (1) applies in relation to a winding up receipt only so far as its value was not brought into account in calculating the profits of the trade of any period before the permanent cessation of the trade.
- (3) A “winding up receipt” means (subject to subsection (4)) a sum received by the company or its liquidator after—
  - (a) the start of the winding up proceedings, or
  - (b) if later, the permanent cessation of the deposit-taking trade.
- (4) The following are not winding up receipts—
  - (a) a sum received on behalf of a person entitled to the sum to the exclusion of the company and its liquidator, and
  - (b) a sum realised by the transfer of an asset required to be valued under section 173 of ITTOIA 2005 (valuation of trading stock on cessation).

#### **837D Transfer of rights to payment**

- (1) This section applies if—
  - (a) the company or its liquidator transfers for value to another person the right to receive a sum arising from the deposit-taking trade, and
  - (b) the sum is one which, if received by the company or its liquidator, would be a winding up receipt.
- (2) If the transfer is at arm's length, this Chapter has effect as if the amount or value of the consideration for the transfer were a winding up receipt arising from the deposit-taking trade.
- (3) If the transfer is not at arm's length, this Chapter has effect as if the value of the right transferred as between parties at arm's length were a winding up receipt arising from the deposit-taking trade.

#### **837E Allowable deductions**

- (1) In calculating the amount on which income tax is charged under this Chapter for a tax year, deductions are allowed in accordance with this section from the amount which would otherwise be chargeable to income tax under this Chapter.
- (2) A deduction is allowed for the total sum of all losses, expenses and debits within subsection (3) that are incurred during or before the tax year (but subject to subsections (4) and (5)).
- (3) The losses, expenses and debits within this subsection are those which, if the company carrying on the deposit-taking trade had not permanently ceased to do so—
  - (a) would have been deducted in calculating the profits of the trade for income or corporation tax purposes, or
  - (b) would have been deducted from or set off against the profits of the trade for income or corporation tax purposes.
- (4) No deduction is allowed if the loss, expense or debit arises directly or indirectly from the cessation itself.

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- (5) A loss, expense or debit is only within subsection (3) if incurred—
  - (a) after the start of the winding up proceedings or, if later, the permanent cessation of the deposit-taking trade, or
  - (b) in the case of a loss, at or before the permanent cessation of the deposit-taking trade.
- (6) No deduction for an amount is allowed under this section if the amount has already been allowed (whether under this section or under any other provision of the Tax Acts).

### **837F Election to carry back**

- (1) This section applies if a winding up receipt arising from the deposit-taking trade is received in a tax year beginning no later than 6 years after the company permanently ceased to carry on the trade.
- (2) The company or its liquidator may elect that the income tax chargeable under this Chapter in respect of the receipt is to be charged as if the receipt has been received on the date of the cessation.
- (3) The election must be made before the end of the period of two years beginning immediately after the end of the tax year in which the receipt is received.
- (4) If an election is made under this section an assessment to income tax must be made accordingly (regardless of anything in the Income Tax Acts).

### **837G Relationship of Chapter with other income tax provisions**

If a winding up receipt arising from the deposit-taking trade is chargeable to income tax under this Chapter it is not chargeable to income tax under any other provision.

### **837H Interpretation of Chapter**

- (1) This section applies for the purposes of this Chapter.
- (2) There is the permanent cessation of a company's trade if—
  - (a) the company ceases to carry on the trade, or
  - (b) the company ceases to be within the charge to corporation tax in respect of the trade,
 whether or not the trade is in fact ceased.
- (3) A company is insolvent at any time if at that time—
  - (a) it is unable to pay its debts as they fall due, or
  - (b) the value of its assets is less than the amount of its liabilities (including its contingent and prospective liabilities).
- (4) “Company” means—
  - (a) a company as defined in section 1(1) of the Companies Act 2006, or
  - (b) an unregistered company as defined in section 220 of the Insolvency Act 1986 or Article 184 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

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(5) For the meaning of “deposit-taking trade” and “winding up receipt”, see sections 837B(3) and 837C(3) respectively.”

72 In Schedule 4 (index of defined expressions) at the appropriate places insert—

“company (in Chapter 3A of Part 14)	section 837H(4)”
“deposit-taking trade (in Chapter 3A of Part 14)	section 837B(3)”
“winding up receipt (in Chapter 3A of Part 14)	section 837C(3)”

### PART 13

RELOCATION OF SECTION 200 OF FA 1996 SO FAR AS APPLYING FOR INCOME TAX PURPOSES

#### *Finance Act 1996 (c. 8)*

73 FA 1996 is amended as follows.

74 (1) Amend section 200 (domicile for tax purposes of overseas electors) as follows.

(2) In subsection (1)(a) (determinations for purposes of inheritance tax, income tax or capital gains tax) omit “, income tax”.

(3) In subsection (4)(a) (which refers to any of the taxes mentioned in subsection (1)(a)) for “any” substitute “ either ”.

#### *Income Tax Act 2007 (c. 3)*

75 ITA 2007 is amended as follows.

76 In section 2(14)(b) (overview of Act: reference to Chapter 2 of Part 14) for “(Chapter 2)” substitute “ and domicile (Chapters 2 and 2A) ”.

77 After section 835A insert—

### “CHAPTER 2A

#### DOMICILE

#### **835B Domicile for income tax purposes of overseas electors**

(1) In determining for income tax purposes where a person is domiciled, disregard any relevant electoral action taken by the person (whether taken before, on or after the day on which TIOPA 2010 is passed).

(2) For the purposes of this section, relevant electoral action is taken by a person if—

(a) the person does anything with a view to, or in connection with, being registered as an overseas elector, or

(b) the person, when registered as an overseas elector, votes in any election at which the person is entitled to vote as a result of being registered as an overseas elector.

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: Taxation (International and Other Provisions) Act 2010 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) For the purposes of this section, a person is registered as an overseas elector if the person is—
- (a) registered in any register of parliamentary electors in pursuance of such a declaration as is mentioned in section 1(1)(a) of the Representation of the People Act 1985 (extension of parliamentary franchise to certain non-resident British citizens), or
  - (b) registered under section 3 of that Act (certain non-resident peers entitled to vote at European Parliamentary elections).
- (4) Subsection (1) does not prevent regard being had, in determining a person's domicile at any time, to any relevant electoral action taken by the person if—
- (a) the person's domicile at that time is being determined for the purpose of ascertaining that or any other person's liability to income tax, and
  - (b) the person whose liability is being ascertained wishes regard to be had to that action.
- (5) If a person's domicile is determined in accordance with any such wishes, that domicile is to be regarded as having been determined for the purpose only of ascertaining the liability concerned.”

## PART 14

### RELOCATION OF SECTION 36 OF FA 1998 AND SECTION 111 OF FA 2009

#### *Taxes Management Act 1970 (c. 9)*

- 78 TMA 1970 is amended as follows.
- 79 In Part 5A (payment of tax) after section 59E insert—

#### “59F Arrangements for paying tax on behalf of group members

- (1) An officer of Revenue and Customs may enter into arrangements for the specified purpose with some or all of the members of a group.
- (2) For the purposes of subsection (1), arrangements entered into with some or all of the members of a group are for “the specified purpose” if they are arrangements for one of those members to discharge any liability of each of those members to pay corporation tax for the accounting periods to which the arrangements relate.
- (3) For the purposes of this section, a company and all its 51% subsidiaries form a group and, if any of those subsidiaries has 51% subsidiaries, the group includes them and their 51% subsidiaries, and so on.
- (4) Arrangements entered into under subsection (1)—
  - (a) may make provision in relation to cases where companies become or cease to be members of a group,
  - (b) may make provision in relation to the discharge of liability to pay interest or penalties,
  - (c) may make provision in relation to the discharge of liability to pay any amount within subsection (6),

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- (d) may make provision for or in connection with the termination of the arrangements, and
  - (e) may make such supplementary, incidental, consequential or transitional provision as is necessary for the purposes of the arrangements.
- (5) Arrangements entered into under subsection (1)—
- (a) do not affect the liability to corporation tax, or to pay corporation tax, of any company to which the arrangements relate, and
  - (b) do not affect any other liability under the Tax Acts of any company to which the arrangements relate.
- (6) The following amounts are within this subsection—
- (a) an amount due from a company under section 455 of CTA 2010 (charge to tax in case of loan to participator in close company) as if it were an amount of corporation tax chargeable on the company, and
  - (b) a sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.”

80 In Part 5A after section 59F insert—

#### “59G Managed payment plans

- (1) This section applies if a person (“P”) has entered into a managed payment plan in respect of—
- (a) an amount on account of income tax which is to become payable in accordance with section 59A(2),
  - (b) an amount of income tax or capital gains tax which is to become payable in accordance with section 59B, or
  - (c) an amount of corporation tax which is to become payable in accordance with section 59D.
- (2) P enters into a managed payment plan in respect of an amount if—
- (a) P agrees to pay, and an officer of Revenue and Customs agrees to accept payment of, the amount by way of instalments,
  - (b) the instalments to be paid before the due date are balanced by the instalments to be paid after it (see section 59H), and
  - (c) the agreement meets such other requirements as may be specified in regulations made by the Commissioners for Her Majesty's Revenue and Customs.
- (3) But this section does not apply, in the case of an amount of corporation tax, if an arrangement under section 59F has been made in relation to the amount.
- (4) If P pays all of the instalments in accordance with the plan, P is to be treated as having paid, on the due date, the total of those instalments.
- (5) If P—
- (a) pays one or more instalments in accordance with the plan, but
  - (b) fails to pay one or more later instalments in accordance with it,
- P is to be treated as having paid, on the due date, the total of the instalments paid before the failure (but this is subject to subsection (6)).

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- (6) If—
- (a) subsection (5) applies in a case in which the first failure to pay an instalment occurs before the due date, and
  - (b) P would (in the absence of a managed payment plan) be entitled to be paid interest on any amount paid before that date,
- then, despite that subsection, P is entitled to be paid that interest.
- (7) If—
- (a) subsection (5) applies,
  - (b) P makes one or more payments after the due date (whether or not in accordance with the plan), and
  - (c) an officer of Revenue and Customs gives P a notice specifying any or all of those payments,
- P is not liable to a penalty or surcharge for failing to pay the amount of the specified payments on or before the due date.
- (8) Regulations under this section may make different provision for different cases.
- (9) In this section “the due date”, in relation to an amount mentioned in subsection (1), means the date on which it becomes payable.

#### **59H Balancing of instalments for the purposes of section 59G**

- (1) Subsection (2) applies for the purposes of section 59G(2)(b).
- (2) The instalments to be paid before the due date are balanced by those to be paid after it if the time value of the instalments to be paid before that date is equal, or approximately equal, to the time value of the instalments to be paid after it.
- (3) The time value of the instalments to be paid before the due date is the total of the time value of each of the instalments to be paid before that date (and the time value of the instalments to be paid after that date is to be read accordingly).
- (4) The time value of an instalment is—
- $$A \times T$$
- where—
- A is the amount of the instalment, and
  - T is the number of days before, or after, the due date that the instalment is to be paid.
- (5) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for the purpose of determining when an amount is approximately equal to another amount.
- (6) Regulations under this section may make different provision for different cases.”

*Status: Point in time view as at 01/01/2016.*

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*Finance Act 1998 (c. 36)*

81 FA 1998 is amended as follows.

82 Omit section 36 (arrangements with respect to payment of corporation tax).

*Finance Act 2009 (c. 10)*

83 FA 2009 is amended as follows.

84 Omit section 111 (managed payment plans).

**PART 15**

RELOCATION OF SECTION 118 OF FA 1998

*Taxes Management Act 1970 (c. 9)*

85 TMA 1970 is amended as follows.

86 In Part 4, after section 43D (which is inserted by Schedule 8) insert—

**“43E Making of income tax claims by electronic communications etc**

- (1) The Commissioners for Her Majesty's Revenue and Customs may, by publishing them in a manner the Commissioners consider appropriate, give any claims directions that the Commissioners consider appropriate.
- (2) In subsection (1) “claims directions” means general directions for the purposes of income tax relating to—
  - (a) the circumstances in which, and
  - (b) the conditions subject to which,claims by individuals under the Tax Acts may be made by the use of an electronic communications service or otherwise without producing a claim in writing.
- (3) Directions under subsection (1)—
  - (a) may not relate to the making of a claim by an individual in the individual's capacity as a trustee, partner or personal representative, but
  - (b) subject to that, may relate to claims made by an individual through another person acting on the individual's behalf.
- (4) Directions under subsection (1) may not relate to—
  - (a) the making of a claim to which Schedule 1B to this Act applies, or
  - (b) the making of a claim under any provision of the Capital Allowances Act 2001.
- (5) Directions under subsection (1)—
  - (a) cannot modify any requirement imposed by or under any enactment as to the period within which any claim is to be made or as to the contents of any claim, but
  - (b) may include provision as to how any requirement as to the contents of a claim is to be met when the claim is not produced in writing.

*Status: Point in time view as at 01/01/2016.*

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- (6) Directions under subsection (1) may make different provision in relation to the making of claims of different descriptions.
- (7) A direction under subsection (1) may revoke or vary any previous direction given under that subsection.
- (8) In subsection (2) “electronic communications service” has the same meaning as in the Communications Act 2003 (see section 32 of that Act).
- (9) In subsections (1) to (6), references to the making of a claim include references to any of the following—
  - (a) the making of an election,
  - (b) the giving of a notification or notice,
  - (c) the amendment of any return, claim, election, notification or notice, and
  - (d) the withdrawal of any claim, election, notification or notice, and in those subsections “claim” is to be read accordingly.
- (10) For the purposes of subsection (9)(c)—
  - (a) “return” includes any statement or declaration under the Income Tax Acts, and
  - (b) the definition of “return” given by section 118(1) of this Act does not apply.

#### **43F Effect of directions under section 43E**

- (1) If directions under section 43E(1) are in force in relation to the making of claims of any description to the Commissioners for Her Majesty's Revenue and Customs, claims of that description may be made to the Commissioners in accordance with the directions.
- (2) If directions under section 43E(1) are in force in relation to the making of claims of any description to an officer of Revenue and Customs, claims of that description may be made to an officer in accordance with the directions.
- (3) Subsections (1) and (2) apply despite any enactment or subordinate legislation which requires claims of the description concerned to be made in writing or by notice.
- (4) If directions under section 43E(1) are in force in relation to the making of claims of any description, claims of that description that are made without producing the claim in writing must be made in accordance with the directions.
- (5) In subsection (3) “subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (6) Section 43E(9) read with section 43E(10) (interpretation of references to making a claim, and meaning of “claim”) applies for the purposes of subsections (1) to (4) (as well as for those of section 43E(1) to (6)).”

*Finance Act 1998 (c. 36)*



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88 Omit section 118 (claims for income tax purposes).

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

89 ITTOIA 2005 is amended as follows.

- 90 (1) Amend section 878 (other definitions) as follows.
- (2) In subsection (3) (claims and elections) for “section 118 of FA 1998” substitute “section 43E(1) of TMA 1970”.
- (3) In subsection (4) for “(in” substitute “ more generally (but in ”.

*Income Tax Act 2007 (c. 3)*

91 ITA 2007 is amended as follows.

92 In section 989 (interpretation of Income Tax Acts) in the definition of “notice” for “section 118 of FA 1998” substitute “ section 43E(1) of TMA 1970 ”.

- 93 (1) Amend section 1020 (claims and elections) as follows.
- (2) In subsection (1) for “section 118 of FA 1998” substitute “ section 43E(1) of TMA 1970 ”.
- (3) In subsection (2) for “(in” substitute “ more generally (but in ”.

**PART 16**

RELOCATION OF SECTION 144 OF FA 2000

*Taxes Management Act 1970 (c. 9)*

94 TMA 1970 is amended as follows.

95 After section 106 insert—

*“Evasion*

**106A Offence of fraudulent evasion of income tax**

- (1) A person commits an offence if that person is knowingly concerned in the fraudulent evasion of income tax by that or any other person.
- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum, or both, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or a fine, or both.
- (3) In the application of subsection (2)(a)—
- (a) in England and Wales in relation to offences committed before the commencement of section 282(3) of the Criminal Justice Act 2003, and
- (b) in Northern Ireland,

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for “12 months” substitute “ 6 months ”.

(4) This section does not apply to things done or omitted before 1st January 2001.”

*Finance Act 2000 (c. 17)*

96 FA 2000 is amended as follows.

97 Omit section 144 (offence of fraudulent evasion of income tax).

*Serious Organised Crime and Police Act 2005 (c. 15)*

98 The Serious Organised Crime and Police Act 2005 is amended as follows.

99 In section 76(3)(n) (offence under section 144 of FA 2000 is one for which a financial reporting order may be made) for “section 144 of the Finance Act 2000 (c. 17)” substitute “ section 106A of the Taxes Management Act 1970 ”.

*Serious Crime Act 2007 (c. 27)*

100 The Serious Crime Act 2007 is amended as follows.

101 (1) Amend Schedule 1 as follows.

(2) In paragraph 8(3) (offence under section 144 of FA 2000 is a serious offence in England and Wales) for “section 144 of the Finance Act 2000 (c. 17)” substitute “ section 106A of the Taxes Management Act 1970 ”.

(3) In paragraph 24(3) (offence under section 144 of FA 2000 is a serious offence in Northern Ireland) for “section 144 of the Finance Act 2000 (c. 17)” substitute “ section 106A of the Taxes Management Act 1970 ”.

**PART 17**

RELOCATION OF SECTION 199 OF FA 2003

*Taxes Management Act 1970 (c. 9)*

102 TMA 1970 is amended as follows.

103 After section 18A insert—

**“18B Savings income: regulations about European and international aspects**

(1) The Treasury may make regulations for implementing and for dealing with matters arising out of or related to—

- (a) any EU obligation created with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the laws of the other member States, and
- (b) any arrangements made with a territory other than a member State with a view to ensuring the effective taxation of savings income under the law of the United Kingdom and the law of the other territory.

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- (2) In this section “savings income” means—
  - (a) interest, apart from interest of a prescribed description, or
  - (b) other sums of a prescribed description.
- (3) The power to make regulations under this section is exercisable by statutory instrument.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

### **18C Regulations under section 18B: provision about “paying agents”**

- (1) Regulations under section 18B may, in particular, require paying agents—
  - (a) to obtain and verify prescribed descriptions of information about the identity and residence of relevant payees to whom they make savings income payments, and
  - (b) to provide to the Commissioners for Her Majesty's Revenue and Customs, or an officer of Revenue and Customs, prescribed descriptions of information about relevant payees to whom they make savings income payments and about the savings income payments which they make to them.
- (2) Regulations under section 18B may include provision for the inspection on behalf of the Commissioners of books, documents and other records of persons who are, or appear to an officer to be, paying agents.
- (3) In this section “paying agents” means persons of a prescribed description who make savings income payments to other persons.
- (4) In this section “relevant payees” means—
  - (a) persons of a prescribed description who are resident (within the meaning of regulations under section 18B) in a prescribed territory, and
  - (b) persons of any such other description as may be prescribed.
- (5) For the purposes of this section, a person makes savings income payments to another person if the person—
  - (a) makes payments of savings income to the other person, or
  - (b) secures the payment of savings income for the other person.
- (6) In this section “savings income” has the same meaning as in section 18B.
- (7) The descriptions of persons who may be prescribed under subsection (3) include, in particular, public officers and government departments.
- (8) The only territories which may be prescribed under subsection (4)(a) are—
  - (a) the other member States, and
  - (b) territories with which arrangements such as are mentioned in section 18B(1)(b) have been made.

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### **18D Content of regulations under section 18B: supplementary provision**

- (1) Regulations under section 18B may include provision for notices under such regulations to be combined with notices under sections 17 and 18.
- (2) Regulations under section 18B may include provision about the time at or within which, and the manner in which, any requirement imposed by such regulations is to be complied with.
- (3) Regulations under section 18B may include provision for penalties for failure to comply with requirements imposed by such regulations, including provision applying any provision of this Act about the determination of penalties or any other matter relating to penalties.
- (4) Regulations under section 18B—
  - (a) may make different provision for different cases or descriptions of case, and
  - (b) may include incidental, supplemental, consequential and transitional provision and savings.

### **18E Interpretation of sections 18B to 18D: “prescribed” etc**

- (1) In sections 18B to 18D “prescribed” means prescribed by regulations under section 18B.
  - (2) The following provisions do not apply for the purposes of sections 18B to 18D—
    - (a) section 118 of this Act (interpretation), and
    - (b) section 18 of ITA 2007 (meaning of “savings income” in the Income Tax Acts).”
- 104 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.
- (2) Omit the entry for regulations under section 199 of the Finance Act 2003.

#### *Finance Act 2003 (c. 14)*

105 FA 2003 is amended as follows.

106 Omit section 199 (savings income: power to make regulations in connection with Community obligations and international arrangements).

## **PART 18**

### RELOCATION OF SECTION 61 OF F(No.2)A 2005

#### *Finance Act 1998 (c. 36)*

107 FA 1998 is amended as follows.

108 (1) Amend Schedule 18 (company tax returns, assessments and related matters) as follows.

(2) After paragraph 87 insert—

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## “PART 10A

### SES

#### Company ceasing to be UK resident on formation of SE by merger

87A(1) Sub-paragraph (2) applies if at any time a company ceases to be resident in the United Kingdom in the course of the formation of an SE by merger, whether or not the company continues to exist after the formation of the SE.

- (2) The other Parts of this Schedule apply after that time, but in relation to liabilities accruing and matters arising before that time—
- (a) as if the company were still resident in the United Kingdom, and
  - (b) if the company has ceased to exist, as if the SE were the company.

#### SE ceasing to be UK resident

87B(1) Sub-paragraph (2) applies if at any time an SE—

- (a) transfers its registered office from the United Kingdom, and
- (b) ceases to be resident in the United Kingdom.

- (2) The other Parts of this Schedule apply after that time, but in relation to liabilities accruing and matters arising before that time, as if the SE were still resident in the United Kingdom.

#### Meaning of SE

87C In this Part “SE” means a European public limited-liability company (or Societas Europaea) within the meaning of Council Regulation (EC) No. 2157/2001 on the Statute for a European company.”

- (3) In the table in paragraph 98 (index of defined expressions) before the entry for “Self-assessment” insert—

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“SE (in Part 10A)	paragraph 87C”
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#### *Finance (No. 2) Act 2005 (c. 22)*

109 F(No.2) A 2005 is amended as follows.

110 Omit section 61 (continuity for transitional purposes in cases involving SEs).

## PART 19

### RELOCATION OF PARAGRAPH 13 OF SCHEDULE 13 TO FA 2007

#### *Income Tax Act 2007 (c. 3)*

111 ITA 2007 is amended as follows.

112 After section 925 insert—

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## “Repos

### 925A Creditor repos

- (1) Subsection (2) applies if a company (“the lender”) has a creditor repo for the purposes of Chapter 10 of Part 6 of CTA 2009 (see section 543 of that Act).
- (2) Sections 918 to 925 have effect in relation to the lender while the arrangement is in force as if—
  - (a) the lender paid the borrower amounts which are representative of the income payable on the securities that are initially sold,
  - (b) the payments were made under requirements of the arrangement, and
  - (c) the payments were made on the dates on which the income is payable.
- (3) For the purposes of subsection (2), an arrangement is in force from the time when the securities are initially sold until the earlier of—
  - (a) the time when the subsequent sale of the securities, or similar securities, takes place, and
  - (b) the time when it becomes apparent that that sale will not take place.

### 925B Debtor repos

- (1) Subsection (2) applies if a company (“the borrower”) has a debtor repo for the purposes of Chapter 10 of Part 6 of CTA 2009 (see section 548 of that Act).
- (2) The reverse charge provisions of this Chapter have effect in relation to the borrower while the arrangement is in force as if—
  - (a) the lender paid the borrower amounts which are representative of the income payable on the securities that are initially sold,
  - (b) the payments were made under requirements of the arrangement, and
  - (c) the payments were made on the dates on which the income is payable.
- (3) In subsection (2) “the reverse charge provisions of this Chapter” means—
  - (a) regulations under section 918(4), and
  - (b) sections 920 and 923.
- (4) For the purposes of subsection (2), an arrangement is in force from the time when the securities are initially sold until the earlier of—
  - (a) the time when the subsequent buying of the securities, or similar securities, takes place, and
  - (b) the time when it becomes apparent that that buying will not take place.

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### **925C Actual payments ignored if section 925A or 925B applies**

If section 925A(2) or 925B(2) applies, any payment actually made under an arrangement which is representative of any income payable on any securities is to be treated for the purposes of sections 918 to 925 as if it had not been made.

### **925D Power to modify repo sections**

- (1) The Treasury may by regulations provide for all or any of the provisions of sections 925A to 925F to apply with modifications in relation to—
  - (a) cases to which section 925E (non-standard repo cases) applies, or
  - (b) cases involving redemption arrangements, or
  - (c) both of those cases.
- (2) A case involves redemption arrangements if—
  - (a) arrangements, corresponding to those made in cases where a company has a repo, are made in relation to securities that are to be redeemed in the period after their sale, and
  - (b) the arrangements are such that a person (instead of having the right or obligation to buy those securities, or similar or other securities, at any subsequent time) has a right or obligation in respect of the benefits which will result from the redemption.
- (3) The regulations may make incidental, supplemental, consequential and transitional provision and savings.
- (4) In this section “modifications” includes exceptions and omissions.
- (5) For the purposes of subsection (2)(a) and section 925E(1), a company has a repo if—
  - (a) for the purposes of Chapter 10 of Part 6 of CTA 2009—
    - (i) it has a creditor repo (see section 543 of that Act),
    - (ii) it has a creditor quasi-repo (see section 544 of that Act),
    - (iii) it has a debtor repo (see section 548 of that Act), or
    - (iv) it has a debtor quasi-repo (see section 549 of that Act), or
  - (b) as a result of section 547 of that Act, the company has a creditor repo for the purposes of section 546 of that Act.

### **925E Cases where section 925D applies: non-standard repos**

- (1) This section applies to a case if—
  - (a) a company has a repo,
  - (b) there has been a sale of the securities under the arrangement or arrangements by reference to which the company has the repo, and
  - (c) any of conditions A to C is met.
- (2) Condition A is that those securities, or similar or other securities, are not subsequently bought under the arrangement or arrangements.

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- (3) Condition B is that provision is made by or under an arrangement for different or additional securities to be treated as, or as included with, securities which, for the purposes of the subsequent purchase, are to represent those initially sold.
- (4) Condition C is that provision is made by or under an arrangement for securities to be treated as not so included.
- (5) Section 925D(5) interprets references in subsection (1) to a company having a repo.

### **925F Interpretation of the repo sections**

- (1) This section applies for the purposes of sections 925A to 925E and this section.
- (2) “Arrangement” includes any agreement or understanding (whether or not legally enforceable).
- (3) It does not matter whether or not provision of any arrangement conferring a right or imposing an obligation on any person to buy any securities is subject to any conditions.
- (4) “Securities” means shares, stock or other securities issued by—
  - (a) the government of the United Kingdom,
  - (b) any public or local authority in the United Kingdom,
  - (c) any UK resident company or other UK resident body,
  - (d) a government or public or local authority of a territory outside the United Kingdom, or
  - (e) any other body of persons not resident in the United Kingdom.
- (5) Securities are similar if they give their holders—
  - (a) the same rights against the same persons as to capital, interest and dividends, and
  - (b) the same remedies to enforce those rights.
- (6) Subsection (5) applies even if there is a difference in—
  - (a) the total nominal amounts of the securities,
  - (b) the form in which they are held, or
  - (c) the manner in which they can be transferred.
- (7) If—
  - (a) a person (“A”) buys securities (or has a right or obligation to buy securities), but
  - (b) the securities are (or are to be) held for the benefit of another person (“B”),

B (not A) is treated as buying (or having the right or obligation to buy) the securities.
- (8) If—
  - (a) a person (“C”) sells securities, but
  - (b) the proceeds of the sale are held for the benefit of another person (“D”),



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D (not C) is treated as selling the securities.”

<sup>F1</sup>113 .....

**Textual Amendments**

**F1** Sch. 7 para. 113 omitted (1.1.2014) by virtue of Finance Act 2013 (c. 29), Sch. 1 para. 52, Sch. 29 para. 48(3)

*Finance Act 2007 (c. 11)*

114 FA 2007 is amended as follows.

115 In Schedule 13 (sale and repurchase of securities) omit paragraph 13 (application of Chapter 9 of Part 15 of ITA 2007).

SCHEDULE 8

Section 374

MINOR AND CONSEQUENTIAL AMENDMENTS

**PART 1**

DOUBLE TAXATION RELIEF

*Taxes Management Act 1970 (c. 9)*

1 TMA 1970 is amended as follows.

2 In section 9A(4)(c) (scope of enquiries) for “section 804ZA of the principal Act (schemes and arrangements designed to increase relief)” substitute “ section 81(2) of TIOPA 2010 (notice to counteract scheme or arrangement designed to increase double taxation relief) ”.

3 (1) Amend section 12B (records to be kept for purposes of returns) as follows.

(2) In subsection (4A)(c) (records of foreign tax: not sufficient to preserve the information in them) for sub-paragraph (ii) substitute—

“(ii) which would have been payable under the law of a territory outside the United Kingdom (“territory F”) but for a development relief.”

(3) After subsection (4A) insert—

“(4B) In subsection (4A)(c) “development relief” means a relief—

(a) given under the law of territory F with a view to promoting industrial, commercial, scientific, educational or other development in a territory outside the United Kingdom, and

(b) about which provision is made in arrangements that have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom).”

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- 4 In section 24 (power to obtain information about income from securities) after subsection (3) insert—
- “(3ZA) If—
- (a) a person beneficially entitled to income from any securities is resident in a territory outside the United Kingdom, and
  - (b) there are double taxation arrangements with respect to income tax or corporation tax which relate to that territory,
- subsection (3) does not exempt any bank from the duty of disclosing to the Board particulars relating to the income of that person.
- (3ZB) In subsection (3ZA) “double taxation arrangements” means arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom).”
- 5 In section 29(7A) (discovery assessments: relaxation of pre-conditions) for “section 804ZA of the principal Act” substitute “ section 81(2) of TIOPA 2010 (notice to counteract scheme or arrangement designed to increase double taxation relief) ”.
- 6 In section 43C(5) (meaning of consequential claim) for “or 43A” substitute “ , 43A or 43D(6) ”.
- 7 In Part 4, after section 43C insert—

**“43D Claims for double taxation relief in relation to petroleum revenue tax**

- (1) This section has effect in relation to a claim for relief under sections 2 to 6 of TIOPA 2010 in relation to petroleum revenue tax.
- (2) The claim shall be for an amount which is quantified at the time when the claim is made.
- (3) If, after the claim has been made, the claimant discovers that an error or mistake has been made in the claim, the claimant may make a supplementary claim within the time allowed for making the original claim.
- (4) Schedule 1A to this Act applies as respects the claim, but as if the reference in paragraph 2A(4) to a year of assessment included a reference to a chargeable period.
- (5) The claim may not be made more than 4 years after the end of the chargeable period to which it relates, but this is subject to any provision of the Taxes Acts prescribing a longer or shorter period.
- (6) If the claim or a supplementary claim could not have been allowed but for the making of an assessment to petroleum revenue tax after the end of the chargeable period to which the claim relates, the claim or supplementary claim may be made at any time before the end of the chargeable period following that in which the assessment is made.
- (7) In this section “chargeable period” has the same meaning as in the Oil Taxation Act 1975 (see section 1(3) and (4) of that Act, under which a period that is a chargeable period ends with 30 June or 31 December and, apart from the first chargeable period in relation to an oil field, is a period of 6 months).”

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*Income and Corporation Taxes Act 1988 (c. 1)*

8 ICTA is amended as follows.

F29 .....

**Textual Amendments**

**F2** Sch. 8 para. 9 repealed (with effect in accordance with s. 26(3) of the amending Act) by Finance Act 2012 (c. 14), s. 26(2)(e); S.I. 2015/1999, art. 2

10 In section 750(3)(b) (disregard of certain double taxation relief) for “Part XVIII” substitute “ Part 2 of TIOPA 2010 (double taxation relief) ”.

11 In section 751(6)(a) (“creditable tax” includes amounts of double taxation relief) for “Part XVIII” substitute “ Part 2 of TIOPA 2010 (double taxation relief) ”.

12 In section 755A(4A)(b) (dividend paid by controlled foreign company to company carrying on life assurance business) for “subsection (4) of section 804B of this Act” substitute “ subsection (5) of section 97 of TIOPA 2010 ”.

13 Omit section 788 (giving effect to double taxation arrangements).

14 Omit section 789 (conversion of references to the profits tax in arrangements given effect under old law).

15 Omit section 790 (unilateral relief).

16 Omit section 791 (power to make regulations giving effect to section 788 and double taxation arrangements).

17 Omit sections 792 to 798C (which contain rules about double taxation relief by way of credit).

18 Omit sections 799 and 801 to 801B (double taxation relief: dividends).

19 Omit sections 803 to 804E and 804G to 806 (further rules about credit relief).

20 (1) Amend section 806A as follows.

(2) In subsection (2)—

(a) in paragraph (c) for “section 801A” substitute “ section 67(6) of TIOPA 2010 ”,

(b) in paragraph (c) for “subsection (1)(b) of that section” substitute “ section 67(3) of that Act ”,

(c) in paragraph (d) for “section 803” substitute “ section 70(2) of TIOPA 2010 ”,

(d) in paragraph (d) for “subsection (1)(b) of that section” substitute “ section 70(1)(d) of that Act ”, and

(e) in paragraph (e) for “section 811” substitute “ section 112 of TIOPA 2010 ”.

(3) In subsection (4)(a) for “section 797” substitute “ section 42(2) of TIOPA 2010 ”.

(4) In subsection (5)—

(a) for “section 799(1)” substitute “ section 57(1) of TIOPA 2010 ”,

(b) for “section 801(2) or (3)” substitute “ section 65(4) of TIOPA 2010 ”, and

(c) for “subsection (2) or (3) of section 801” substitute “ section 65(4) of TIOPA 2010 ”.

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- 21 (1) Amend section 806B as follows.
- (2) In subsection (2)(b) for “section 797” substitute “ section 42 of TIOPA 2010 ”.
- (3) In subsection (3)(b) for “section 799(1)” substitute “ section 57(1) of TIOPA 2010 ”.
- (4) In subsection (4)—
- (a) in paragraph (a) for “section 799(1)” substitute “ section 57(1) of TIOPA 2010 ”,
  - (b) in paragraph (b) for “section 799(1A)” substitute “ Step 3 in section 58(1) of TIOPA 2010 ”,
  - (c) in paragraph (b) for “M%” substitute “ M ”, and
  - (d) in paragraph (b)(ii) for “U” substitute “ PA ”.
- (5) In subsection (5)—
- (a) for “subsection (2) or (3) of section 801” substitute “ section 65(4) of TIOPA 2010 ”,
  - (b) in each of paragraphs (a), (b)(ii) and (c)(ii) for “subsection (2) or (3), as the case may be, of section 801” substitute “ section 65(4) of TIOPA 2010 ”,
  - (c) for “section 799(1A)” substitute “ Step 3 in section 58(1) of TIOPA 2010 ”,
  - (d) for “M%” substitute “ M ”, and
  - (e) for “U” substitute “ PA ”.
- (6) In subsection (7)(b) for “section 799(1)” substitute “ section 59 of TIOPA 2010 ”.
- (7) In subsection (10)—
- (a) in the definition of “lower level dividend” for “section 801(2) or (3)” substitute “ section 65(4) of TIOPA 2010 ”,
  - (b) in paragraph (a) of the definition of “the relevant tax” for “section 799(1)” substitute “ section 57(1) of TIOPA 2010 ”, and
  - (c) in paragraph (b) of that definition for “section 801(2) or (3)” substitute “ section 65(4) of TIOPA 2010 ”.
- 22 In section 806C(3) and (4) for “this Part” substitute “ Part 2 of TIOPA 2010 ”.
- 23 In section 806D(3), (4) and (5) for “this Part” substitute “ Part 2 of TIOPA 2010 ”.
- 24 In section 806F(1) and (2) for “this Part” substitute “ Part 2 of TIOPA 2010 ”.
- 25 (1) Amend section 806J (interpretation of sections 806A to 806J) as follows.
- (2) In subsection (5)(b) for “subsection (6)(b) of section 790” substitute “ section 15 or 16 of TIOPA 2010 ”.
- (3) In subsection (5) for “subsection (10) of that section” substitute “ section 12(3) of TIOPA 2010 ”.
- (4) For subsection (6) substitute—
- “(6) For the purposes of the foreign dividend provisions of this Chapter a company is related to another company if that other company—
- (a) controls directly or indirectly, or
  - (b) is a subsidiary of a company which controls directly or indirectly, at least 10% of the voting power in the first-mentioned company.”

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- (5) In subsection (7) in the definition of “the mixer cap” for “section 799(1)” substitute “ Step 6 in section 58(1) of TIOPA 2010 ”.
- 26 Omit sections 806L and 806M (unrelieved foreign tax).
- 27 Omit sections 807 and 807A (provision, in connection with relief, about accrued income profits and about loan relationships).
- 28 Omit sections 807B to 807G (provisions related to the Mergers Directive).
- 29 Omit sections 808A to 809 and 811 (provision, in connection with relief, about interest, royalties and discretionary trusts, and for deductions where no credit allowed).
- F<sup>3</sup>30 .....

**Textual Amendments**

**F3** Sch. 8 paras. 30, 31 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), **Sch. 1 Pt. 10** Group 1

F<sup>3</sup>31 .....

**Textual Amendments**

**F3** Sch. 8 paras. 30, 31 repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), **Sch. 1 Pt. 10** Group 1

- 32 Omit sections 815A to 815B and 816 (provision, in connection with relief, about transfer of non-UK trades, about foreign enterprises and about cases presented under arrangements, and provision about the Arbitration Convention and about disclosure of information).
- 33 In section 828(4) (orders and regulations not subject to annulment) omit “791”.
- F<sup>4</sup>34 .....

**Textual Amendments**

**F4** [Sch. 8 para. 34](#) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 247(x)**

- 35 (1) Amend Schedule 26 (reliefs against liability for tax in respect of chargeable profits of controlled foreign companies) as follows.
- (2) In paragraph 3(5)(b) for “Part XVIII” substitute “ Part 2 of TIOPA 2010 ”.
- (3) In paragraph 4(2) for “Part XVIII” substitute “ Part 2 of TIOPA 2010 (double taxation relief) ”.
- (4) In paragraph 4(4) for “section 796 or section 797” substitute “ section 36, 40, 41 or 42 of TIOPA 2010 ”.
- (5) In paragraph 5(1) for paragraphs (a) and (b) substitute—

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- “(a) arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom), or
  - (b) unilateral relief arrangements for a territory outside the United Kingdom (as defined by section 8 of that Act),”.
- (6) In paragraph 5(1) for “Part XVIII” substitute “ Part 2 of TIOPA 2010 ”.
- (7) In paragraph 5(2) for “section 795(2)(b)” substitute “ section 31(2)(b) and (3) of TIOPA 2010 ”.
- (8) In paragraph 6(1)(c) for “Part XVIII” substitute “ Part 2 of TIOPA 2010 ”.
- 36 Omit Schedule 28AB (prescribed schemes and arrangements for purposes of section 804ZA).

*Finance Act 1989 (c. 26)*

- 37 FA 1989 is amended as follows.
- 38 In section 115(1) (tax credits for dividends paid to non-residents by UK resident companies) for “having effect by virtue of section 788 of the Taxes Act 1988” substitute “ which have effect under section 2(1) of the Taxation (International and Other Provisions) Act 2010 ”.
- 39 In section 182A(6) (double taxation: disclosure of information: interpretation) for “section 815B(4) of the Taxes Act 1988” substitute “ section 126 of the Taxation (International and Other Provisions) Act 2010 ”.

*Taxation of Chargeable Gains Act 1992 (c. 12)*

- 40 TCGA 1992 is amended as follows.
- 41 In section 10(4) (persons exempt under Part 18 of ICTA) for “Part XVIII of the Taxes Act (double taxation relief agreements)” substitute “ Part 2 of TIOPA 2010 (double taxation relief) ”.
- 42 In section 10B(3) (companies exempt under Part 18 of ICTA) for “Part 18 of the Taxes Act (double taxation relief agreements)” substitute “ Part 2 of TIOPA 2010 (double taxation relief) ”.
- 43 In section 59(2)(b) (arrangements giving relief for partnership gains) for “falling within section 788 of the Taxes Act” substitute “ that have effect under section 2(1) of TIOPA 2010 ”.
- 44 In sections 140H(3), 140I(3) and 140J(3) (gains on which tax would have been charged but for the Mergers Directive)—
- (a) for “Part 18 of the Taxes Act” substitute “ Part 2 of TIOPA 2010 ”, and
  - (b) for “arrangements having effect by virtue of section 788 of that Act (bilateral relief)” substitute “ double taxation relief arrangements ”.
- 45 Omit section 277 (application to capital gains tax of provisions about double taxation relief).
- 46 Omit section 278 (deduction for foreign gains tax in respect of which double taxation relief by way of credit against UK tax not allowed).

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47 In section 288(1) (interpretation) for the definition of “double taxation relief arrangements” substitute—

““double taxation relief arrangements”—

- (a) in relation to a company means arrangements that have effect under section 2(1) of TIOPA 2010 except so far as they have effect in relation to petroleum revenue tax, and
- (b) in relation to any other person means arrangements that have effect under section 2(1) of TIOPA 2010 but only so far as they have effect in relation to capital gains tax;”.

*Finance Act 1993 (c. 34)*

48 FA 1993 is amended as follows.

49 Omit section 194 (application to petroleum revenue tax of provisions about double taxation relief).

50 In section 195(3) (interpretation of Part 3) omit “, other than section 194,”.

*Finance (No. 2) Act 1997 (c. 58)*

51 F(No.2) A 1997 is amended as follows.

52 (1) Amend section 30 (tax credits) as follows.

- (2) In subsection (9) for “section 788 of the Taxes Act 1988” substitute “ section 2(1) of the Taxation (International and Other Provisions) Act 2010 ”.
- (3) In subsection (10)(a) for “by virtue of section 788 of the Taxes Act 1988” substitute “ under section 2(1) of the Taxation (International and Other Provisions) Act 2010 ”.

*Finance Act 1998 (c. 36)*

53 FA 1998 is amended as follows.

54 (1) Amend Schedule 18 (company tax returns etc) as follows.

(2) In paragraph 8(1) (calculation of tax payable)—

- (a) in paragraph 2 of the Second step for “section 788 or 790 of that Act” substitute “ under sections 2 and 6 of TIOPA 2010 or under section 18(1) (b) and (2) of that Act ”, and
- (b) in paragraph 3 of that step for “that Act” substitute “ the Taxes Act 1988 ”.

(3) In paragraph 22(3)(c) (records of foreign tax: not sufficient to preserve the information in them) for sub-paragraph (ii) substitute—

“(ii) which would have been payable under the law of a territory outside the United Kingdom (“territory F”) but for a development relief.”

(4) In paragraph 22 after sub-paragraph (3) insert—

“(4) In sub-paragraph (3)(c) “development relief” means a relief—

- (a) given under the law of territory F with a view to promoting industrial, commercial, scientific, educational or other development in a territory outside the United Kingdom, and

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- (b) about which provision is made in arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom).”

*Finance Act 2000 (c. 17)*

55 FA 2000 is amended as follows.

56 (1) Amend Schedule 22 (tonnage tax) as follows.

(2) For paragraph 57(2)(a) (“relief” includes double taxation relief) substitute—

- “(a) sections 2 and 6 of the Taxation (International and Other Provisions) Act 2010 (double taxation relief by agreement with territories outside the United Kingdom),  
(aa) section 18(1)(b) and (2) of that Act (unilateral relief from double taxation), or”.

*Capital Allowances Act 2001 (c. 2)*

57 CAA 2001 is amended as follows.

58 In section 105(4) (meaning of “double taxation arrangements”) for the words from “specified” to the end substitute “ which have effect under section 2(1) of the Taxation (International and Other Provisions) Act 2010 (double taxation relief by agreement with territories outside the United Kingdom) ”.

*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

59 ITEPA 2003 is amended as follows.

60 In section 643(6) in the definition of “double taxation relief arrangements” for the words from “specified” to the end substitute “ which have effect under section 2(1) of TIOPA 2010; ”.

*Finance Act 2004 (c. 12)*

61 FA 2004 is amended as follows.

62 In Chapter 7 of Part 3 (special withholding tax) omit—

- (a) sections 107 to 111,  
(b) sections 113 and 114, and  
(c) section 115(4).

63 In section 189(3) (treatment of relevant UK earnings) for “by virtue of section 788 of ICTA” substitute “ under section 2(1) of the Taxation (International and Other Provisions) Act 2010 ”.

64 In Schedule 34 (non-UK pensions schemes: application of certain charges) in paragraph 20 (meaning of “double tax arrangements”) for “by virtue of section 788 of ICTA” substitute “ under section 2(1) of the Taxation (International and Other Provisions) Act 2010 ”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

65 ITTOIA 2005 is amended as follows.



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- 66 In section 397A(7) (interpretation of section) in the definition of “special withholding tax” for “section 107(3) of FA 2004” substitute “ section 136(6) of TIOPA 2010 ”.
- 67 For section 397BA(2)(a) (which refers to arrangements to which section 788 of ICTA applies) substitute—  
“ (a) arrangements made in relation to the territory have effect under section 2(1) of TIOPA 2010 (“double taxation relief arrangements”), and”.
- 68 In section 763(3) (priority of double taxation arrangements) for “section 788 of ICTA” substitute “ section 2(1) of TIOPA 2010 ”.
- 69 (1) Section 764 (application of ICTA provisions about special relationships) is amended as follows.  
(2) In subsection (1), and in the title, for “ICTA” substitute “ TIOPA 2010 ”.  
(3) In subsection (1) for “special relationship provision” substitute “ special relationship rule ”.  
(4) In subsection (2) for “subsections (2) to (4) of section 808A of ICTA” substitute “ section 131(3), (5) and (6) of TIOPA 2010 ”.  
(5) In subsection (3) for “subsections (2) to (7) and (9) of section 808B of ICTA” substitute “ sections 132(3) to (5), (7) and (8) and 133 of TIOPA 2010 ”.
- 70 In section 858(1)(b) (resident partners and double taxation agreements) for “section 788 of ICTA” substitute “ section 2(1) of TIOPA 2010 ”.

*Income Tax Act 2007 (c. 3)*

- 71 ITA 2007 is amended as follows.
- 72 In section 1(2)(a) (example of income tax provisions located outside ITA 2007) for “Part 18 of ICTA” substitute “ Part 2 of TIOPA 2010 ”.
- 73 (1) Amend section 26(1)(b) (provisions referred to at Step 6 of the calculation in section 23) as follows.  
(2) Omit the entries for sections 788 and 790 of ICTA.  
(3) Omit “and” before the entry for sections 677 and 678 of ITTOIA 2005.  
(4) After that entry insert—  
“sections 2 and 6 of TIOPA 2010 (double taxation relief: relief by agreement), and  
section 18(1)(b) and (2) of TIOPA 2010 (relief for foreign tax where no double taxation arrangements).”
- 74 In section 27(6) (tax reductions for individuals by way of double taxation relief)—  
(a) in paragraph (a) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”, and  
(b) in paragraph (b) for “section 790(1) of ICTA” substitute “ section 18(1)(b) and (2) of TIOPA 2010 ”.

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- 75 In section 28(4) (tax reductions for non-individuals by way of double taxation relief)—
- (a) in paragraph (a) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”, and
  - (b) in paragraph (b) for “section 790(1) of ICTA” substitute “ section 18(1)(b) and (2) of TIOPA 2010 ”.
- 76 (1) Amend section 29 (tax reductions: supplementary) as follows.
- (2) In subsection (4)(a) for “section 796(1), (2) and (3) of ICTA” substitute “ sections 36(1) to (5) and (7) and 41 of TIOPA 2010 ”.
  - (3) In subsection (5) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”.
- 77 (1) Amend section 32 (liabilities not dealt with in calculation under section 23) as follows.
- (2) Omit the entry for section 804(5B)(a) of ICTA.
  - (3) Omit the word “and” before the entry for section 682(4) of ITTOIA 2005.
  - (4) After that entry insert “, and  
under section 24(4) of TIOPA 2010 (recovery of excess credit for overseas tax).”
- 78 (1) Amend section 53 (transfer of unused relief: general) as follows.
- (2) In subsection (2) (tax reductions by way of double taxation relief)—
    - (a) in paragraph (a) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”, and
    - (b) in paragraph (b) for “section 790(1) of ICTA” substitute “ section 18(1)(b) and (2) of TIOPA 2010 ”.
  - (3) In subsection (5) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”.
- 79 (1) In section 424(2) (gift aid: charge to tax: interpretation) amend paragraph (b) of the definition of “amount C” as follows.
- (2) In sub-paragraph (i) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”.
  - (3) In sub-paragraph (ii) for “section 790(1) of ICTA” substitute “ section 18(1)(b) and (2) of TIOPA 2010 ”.
- 80 (1) Amend section 425 (“total amount of income tax” in sections 423 and 424) as follows.
- (2) In subsection (4) (tax reductions to be ignored)—
    - (a) in paragraph (b) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”, and
    - (b) in paragraph (c) for “section 790(1) of ICTA” substitute “ section 18(1)(b) and (2) of TIOPA 2010 ”.
  - (3) In subsection (6) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”.

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81 In section 527(2) omit paragraph (b) (subsection (1) does not apply to income chargeable to tax under section 804 of ICTA).

F<sup>5</sup>82 .....

**Textual Amendments**

**F5** Sch. 8 para. 82 omitted (1.1.2014) by virtue of Finance Act 2013 (c. 29), Sch. 1 para. 52, Sch. 29 para. 48(4)

83 In section 828C(4) (entitlement to double taxation relief)—  
(a) in paragraph (a) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”, and  
(b) in paragraph (b) for “section 790(1)” substitute “ section 18(1)(b) and (2) ”.

84 In section 849(1) (interaction between Part 15 of ITA 2007 and regulations under section 791 of ICTA) for “section 791 of ICTA (double taxation relief: power to make regulations for carrying out section 788)” substitute “ section 7 of TIOPA 2010 (double taxation arrangements: general regulations) ”.

85 In section 1023 (meaning in Act of “double taxation arrangements”) for “section 788 of ICTA” substitute “ section 2(1) of TIOPA 2010 ”.

86 In section 1026—  
(a) after paragraph (e) insert “ or ”, and  
(b) omit paragraph (g) (“non-qualifying income” in section 1025 includes deemed receipts under section 804(5B) of ICTA) and the “or” preceding it.

*Finance Act 2008 (c. 9)*

87 FA 2008 is amended as follows.

88 In Schedule 17 in paragraph 10(3) after paragraph (c) insert “ and ”.

*Corporation Tax Act 2009 (c. 4)*

89 CTA 2009 is amended as follows.

90 In section 464(3)—  
(a) in paragraph (f) for “section 795(4) of ICTA” substitute “ section 31(5) of TIOPA 2010 ”, and  
(b) in paragraph (g) for “section 811(3) of ICTA” substitute “ section 112(5) of TIOPA 2010 ”.

91 In section 486(2) for “section 811 of ICTA” substitute “ section 112 of TIOPA 2010 ”.

92 In section 550(7) (meaning of “double taxation relief”) for “Part 18 of ICTA” substitute “ Part 2 of TIOPA 2010 ”.

93 In section 697(3)(a) (exceptions to section 696) for “because of section 788 of ICTA” substitute “ under section 2(1) of TIOPA 2010 ”.

94 In section 782(1)(a) (intangible fixed assets transferred in the course of certain transfers of a business)—

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- (a) for “section 807B(2)(b)(iii) of ICTA” substitute “ section 116(2)(b)(iii) of TIOPA 2010 ”, and  
(b) for “section 807C” substitute “ section 117 ”.
- 95 In section 793(3)(b) (when election under section 792 may be made) for “arrangements under Part 18 of ICTA” substitute “ arrangements that have effect under section 2(1) of TIOPA 2010 ”.
- 96 In section 827(7) (no claim under section if claim made under section 807B(6) of ICTA)—  
(a) for “section 807B(6) of ICTA” substitute “ section 116(6) of TIOPA 2010 ”, and  
(b) for “section 807C” substitute “ section 117 ”.
- 97 In section 906(3)—  
(a) omit “and” after paragraph (a), and  
(b) after paragraph (b) insert “, and  
(c) section 112(5) of TIOPA 2010 (deduction for foreign tax where no credit available).”
- 98 For section 931C(1)(a) (which refers to arrangements to which section 788 of ICTA applies) substitute—  
“(a) arrangements made in relation to the territory have effect under section 2(1) of TIOPA 2010 (“double taxation relief arrangements”), and”.
- 99 In section 931H(5) for “Part 18 of ICTA” substitute “ Part 2 of TIOPA 2010 ”.
- 100 In section 931J(7) for “Part 18 of ICTA” substitute “ Part 2 of TIOPA 2010 ”.
- 101 In section 1266(1)(b) (resident partners and double taxation agreements) for “section 788 of ICTA” substitute “ section 2(1) of TIOPA 2010 ”.

*Finance Act 2009 (c. 10)*

- 102 FA 2009 is amended as follows.
- 103 In section 56(1) (tax in respect of MEPs' pay) for “Part 18 of ICTA (double tax” substitute “ Part 2 of TIOPA 2010 (double taxation ”.
- 104 In Schedule 16 in paragraph 7(2)(a) (purposes for which straddling accounting periods are split) after “Chapter 4 of Part 17, and Part 18, of ICTA” insert “ and Part 2 of TIOPA 2010 ”.
- 105 In Schedule 35 in paragraph 2(4)(b) for “section 788 of ICTA” substitute “ sections 2 and 6 of TIOPA 2010 ”.

**PART 2**

TRANSFER PRICING AND ADVANCE PRICING AGREEMENTS

*Taxes Management Act 1970 (c. 9)*

- 106 TMA 1970 is amended as follows.

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- 107 In section 9A(4)(b) (scope of enquiries) for “paragraph 5C of Schedule 28AA to the principal Act” substitute “ section 168(1) of TIOPA 2010 ”.
- 108 (1) Amend the second column of the Table in section 98 (special returns etc) as follows.
- (2) Omit the entry for section 86(4) of FA 1999.
- (3) At the appropriate place insert—

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“Section 228 of TIOPA 2010.”

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*Income and Corporation Taxes Act 1988 (c. 1)*

- 109 ICTA is amended as follows.
- 110 Omit section 770A (which introduces Schedule 28AA).
- 111 Omit Schedule 28AA (transfer pricing).

*Finance Act 1998 (c. 36)*

- 112 FA 1998 is amended as follows.
- 113 Omit section 110 (determinations requiring the sanction of the Commissioners for Her Majesty's Revenue and Customs).
- 114 Omit section 111 (duty to give notice to persons who may be able to make or amend a claim under paragraph 6 of Schedule 28AA or who may have rights to be heard in appeals under that Schedule).

*Finance Act 1999 (c. 16)*

- 115 FA 1999 is amended as follows.
- 116 Omit section 85 (advance pricing agreements).
- 117 Omit section 86(1) to (8) and (10) (provisions supplementary to section 85).
- 118 Omit section 87 (effect of advance pricing agreements on non-parties).

*Finance Act 2000 (c. 17)*

- 119 (1) Schedule 22 to FA 2000 (tonnage tax) is amended as follows.
- (2) In paragraph 58(1) for the words after paragraph (b) substitute—
- “Part 4 of the Taxation (International and Other Provisions) Act 2010 (transactions not at arm's length) has effect with the omission of sections 174 to 184, 187 to 189 and 191 to 196 (elimination of double counting etc).”
- (3) In paragraph 58(2) for “Schedule 28AA” substitute “ Part 4 of the Taxation (International and Other Provisions) Act 2010 ”.
- (4) In paragraph 59(1) for “Schedule 28AA to the Taxes Act 1988” substitute “ Part 4 of the Taxation (International and Other Provisions) Act 2010 ”.
- (5) For paragraph 59(2) substitute—

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“(2) As applied by sub-paragraph (1), Part 4 of the Taxation (International and Other Provisions) Act 2010 has effect with the omission of sections 174 to 184, 187 to 189 and 191 to 196 (elimination of double counting etc).”

(6) In paragraph 59(3) for “Schedule 28AA” substitute “ Part 4 of the Taxation (International and Other Provisions) Act 2010 ”.

(7) In paragraph 60(2) for “Schedule 28AA” substitute “ Part 4 of the Taxation (International and Other Provisions) Act 2010 ”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

120 ITTOIA 2005 is amended as follows.

121 (1) Amend section 172F (transfer pricing rules to take precedence over sections 172D and 172E) as follows.

(2) In subsection (1)(a) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.

(3) In subsection (1)(b) for “that Schedule” substitute “ that Part ”.

(4) In subsection (2) for “Schedule 28AA to ICTA without falling to be adjusted under that Schedule” substitute “ Part 4 of TIOPA 2010 without falling to be adjusted under that Part ”.

(5) For subsection (2)(a) and (b) substitute—

“(a) the condition in section 147(1)(a) of TIOPA 2010 is met, and

(aa) the participation condition is met (see subsection (2B)), but

(b) either—

(i) one of the conditions in section 147(1)(c) and (d) of TIOPA 2010 is not met, or

(ii) one of the exceptions mentioned in subsection (2A) applies.”

(6) After subsection (2) insert—

“(2A) The exceptions are those in—

(a) section 447(5) of CTA 2009 (exchange gains or losses from loan relationships),

(b) section 694(8) of CTA 2009 (exchange gains or losses from derivative contracts),

(c) section 213 of TIOPA 2010 (saving for provisions relating to capital allowances), and

(d) section 214 of TIOPA 2010 (saving for provisions relating to chargeable gains).

(2B) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”

122 In section 173(2) (trading stock not to be valued if paragraph 1(2) of Schedule 28AA to ICTA has effect) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “ section 147(3) or (5) of TIOPA 2010 ”.

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*Corporation Tax Act 2009 (c. 4)*

- 123 CTA 2009 is amended as follows.
- 124 (1) Amend section 161 (transfer pricing rules take precedence over rules about disposals and acquisitions of trading stock not made in course of the trade concerned) as follows.
- (2) In subsection (1)(a) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- (3) In subsection (1)(b) for “that Schedule” substitute “ that Part ”.
- (4) For subsection (2) substitute—
- “ (2) For the purposes of subsection (1)(b), the relevant consideration falls within Part 4 of TIOPA 2010 without falling to be adjusted under that Part if—
- (a) the condition in section 147(1)(a) of TIOPA 2010 is met, and
- (b) the participation condition is met (see subsection (3A)), but
- (c) either—
- (i) one of the conditions in section 147(1)(c) and (d) of TIOPA 2010 is not met, or
- (ii) one of the exceptions mentioned in subsection (3) applies.”
- (5) In subsection (3) for paragraphs (c) and (d) substitute—
- “(c) section 213 of TIOPA 2010 (saving for provisions relating to capital allowances), and
- (d) section 214 of TIOPA 2010 (saving for provisions relating to chargeable gains).”
- (6) After subsection (3) insert—
- “(3A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(b) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”
- 125 In section 162(2) (trading stock not to be valued if paragraph 1(2) of Schedule 28AA to ICTA has effect) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “ section 147(3) or (5) of TIOPA 2010 ”.
- 126 In section 340(7) (Schedule 28AA to ICTA does not apply to amounts accounted for under the section) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 127 In section 374(3)(a) (meaning of non-qualifying territory) for “paragraph 5E of Schedule 28AA to ICTA” substitute “ section 173 of TIOPA 2010 ”.
- 128 (1) Amend section 376(5) (interpretation of section 375) as follows.
- (2) In the definition of “non-qualifying territory” for “paragraph 5E of Schedule 28AA to ICTA” substitute “ section 173 of TIOPA 2010 ”.
- (3) In the definition of “small or medium-sized enterprise” for “paragraph 5D of that Schedule” substitute “ section 172 of TIOPA 2010 ”.
- 129 In section 377(3)(a) (meaning of non-qualifying territory) for “paragraph 5E of Schedule 28AA to ICTA” substitute “ section 173 of TIOPA 2010 ”.

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- 130 In section 407(6)(a) (meaning of non-qualifying territory) for “paragraph 5E of Schedule 28AA to ICTA” substitute “ section 173 of TIOPA 2010 ”.
- 131 (1) Amend section 410(5) (interpretation of section) as follows.
- (2) In the definition of “non-qualifying territory” for “paragraph 5E of Schedule 28AA to ICTA” substitute “ section 173 of TIOPA 2010 ”.
- (3) In the definition of “small or medium-sized enterprise” for “paragraph 5D of that Schedule” substitute “ section 172 of TIOPA 2010 ”.
- 132 In section 444(3) (section is subject to section 445) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 133 (1) Amend section 445 (disapplication of section 444 where Schedule 28AA to ICTA applies) as follows.
- (2) In subsection (1) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- (3) In each of paragraphs (a) and (b) of that subsection for “that Schedule” substitute “ that Part ”.
- (4) In subsection (2)(a) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- (5) In subsection (2)(b) for “that Schedule” substitute “ that Part ”.
- (6) In subsection (3) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- (7) For subsection (3)(a) substitute—
- “(a) the condition in section 147(1)(a) of TIOPA 2010 is met,  
(aa) the participation condition is met (see subsection (3A)), and”.
- (8) After subsection (3) insert—
- “(3A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (3)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”
- (9) In subsection (4) for “Schedule 28AA to ICTA,” substitute “ Part 4 of TIOPA 2010, ”.
- (10) In subsection (5) for “Schedule 28AA to ICTA (see paragraph 1 of that Schedule)” substitute “ Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act) ”.
- (11) In the title for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 134 (1) Amend section 446 (bringing into account adjustments made under Schedule 28AA to ICTA) as follows.
- (2) In each of subsections (1), (2), (4) and (6), and in the title, for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 135 (1) Amend section 447 (exchange gains and losses on debtor relationships: loans disregarded under Schedule 28AA to ICTA) as follows.
- (2) In subsection (1)(c) for “paragraph 1 of Schedule 28AA to ICTA” substitute “ section 147(3) or (5) of TIOPA 2010 ”.
- (3) In subsection (5) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.



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- (4) In subsection (7) for “Schedule 28AA to ICTA (see paragraph 1 of that Schedule)” substitute “ Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act) ”.
- (5) In the title for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 136 In section 452(1)(a) and (3)(a) (exchange gains and losses where loan not on arm's length terms) for “paragraph 6D(2) of Schedule 28AA to ICTA” substitute “ section 192(1) of TIOPA 2010 ”.
- 137 In section 455(5) (section does not apply if paragraph 1(2) of Schedule 28AA to ICTA has effect) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “ section 147(3) or (5) of TIOPA 2010 ”.
- 138 In section 464(3)(a) (which refers to and describes section 445(2)) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 139 In section 484(1) (non-lending relationships treated as loan relationships: meaning of “interest”) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 140 In section 508(2) (arrangements which are not alternative finance arrangements)—
- (a) in paragraph (b) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “ subsection (3) or (5) of section 147 of TIOPA 2010 ”,
  - (b) in that paragraph for “in paragraph 1(2)(a) of that Schedule” substitute “ in that subsection ”, and
  - (c) in paragraph (c) for “that Schedule” substitute “ Part 4 of TIOPA 2010 ”.
- 141 In section 625(7) (Schedule 28AA to ICTA does not apply to amounts if credits or debits in respect of those amounts are determined under the section), for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 142 (1) Amend section 693 (bringing into account adjustments under Schedule 28AA to ICTA) as follows.
- (2) In subsections (1), (2) and (4), and the title, for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- 143 (1) Amend section 694 (exchange gains and losses where derivative contracts not on arm's length terms) as follows.
- (2) In subsections (2), (4) and (8) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
  - (3) In subsection (10) for “Schedule 28AA to ICTA (see paragraph 1 of that Schedule)” substitute “ Part 4 of TIOPA 2010 (see sections 149 and 151 of that Act) ”.
- 144 In section 698(5) (section does not apply if paragraph 1(2) of Schedule 28AA to ICTA increases company's tax liability) for “paragraph 1(2) of Schedule 28AA to ICTA” substitute “ section 147(3) or (5) of TIOPA 2010 ”.
- 145 (1) In the provisions mentioned in sub-paragraph (2) (provisions which relate to intangible fixed assets and refer to matters being subject to adjustments under Schedule 28AA to ICTA) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.
- (2) The provisions are—
    - section 721(3),
    - section 728(3),
    - section 729(4),

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section 731(5),  
 section 736(7),  
 section 739(2),  
 section 740(4),  
 section 742(3), and  
 section 743(3).

146 In section 775(3) (intangible fixed assets: transfers within a group) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.

147 (1) Amend section 846 (intangible fixed assets: transfers not at arm's length) as follows.

(2) In subsection (1)(a) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.

(3) In subsection (1)(b) for “that Schedule” substitute “ that Part ”.

(4) In subsection (2) for “within that Schedule” substitute “ within that Part ”.

(5) For subsection (2)(a) substitute—

“(a) the condition in section 147(1)(a) of TIOPA 2010 is met,

(aa) the participation condition is met (see subsection (2A)), and”.

(6) After subsection (2) insert—

“(2A) Section 148 of TIOPA 2010 (when the participation condition is met) applies for the purposes of subsection (2)(aa) as it applies for the purposes of section 147(1)(b) of TIOPA 2010.”

(7) In subsection (3) for the words after “meaning” substitute “ as in that Part (see, respectively, sections 149 and 151 of TIOPA 2010) ”.

148 In section 931P(4) (section does not apply if Schedule 28AA to ICTA applies) for “Schedule 28AA to ICTA” substitute “ Part 4 of TIOPA 2010 ”.

#### *Finance Act 2009 (c. 10)*

149 FA 2009 is amended as follows.

150 In Schedule 17 (international movement of capital) in paragraph 12(5) for “Paragraph 3 of Schedule 28AA to ICTA” substitute “ Section 150 of TIOPA 2010 ”.

### **PART 3**

#### TAX ARBITRAGE

#### *Finance (No. 2) Act 2005 (c. 22)*

151 F(No.2)A 2005 is amended as follows.

152 Omit sections 24 to 28 (avoidance involving tax arbitrage).

153 Omit section 30 (interpretation of Chapter 4 of Part 2).

154 Omit section 31 (commencement of Chapter 4 of Part 2).

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155 Omit Schedule 3 (qualifying schemes).

#### PART 4

##### TAX TREATMENT OF FINANCING COSTS AND INCOME

###### *Taxes Management Act 1970 (c. 9)*

- 156 TMA 1970 is amended as follows.
- 157 (1) Amend the first column of the Table in section 98 (special returns etc) as follows.
- (2) Omit the entry for regulations under Schedule 15 to FA 2009.
- (3) At the appropriate place insert—

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“Regulations under section 283, 284, 285, 295 or 297 of TIOPA 2010.”

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###### *Finance Act 2009*

- 158 FA 2009 is amended as follows.
- 159 Omit section 35 (which introduces Schedule 15).
- 160 Omit paragraphs 1 to 94 and 97 to 99 of Schedule 15 (tax treatment of financing costs and income).

#### PART 5

##### OFFSHORE FUNDS

###### *Inheritance Tax Act 1984 (c. 51)*

- 161 The Inheritance Tax Act 1984 is amended as follows.
- 162 In section 174(1)(a) (income tax and unpaid inheritance tax) for “made under section 41(1) of the Finance Act 2008” substitute “ under section 354(1) of the Taxation (International and Other Provisions) Act 2010 ”.

###### *Taxation of Chargeable Gains Act 1992 (c. 12)*

- 163 TCGA 1992 is amended as follows.
- 164 In section 108(1)(c) (identification of relevant securities for corporation tax) for “made under section 41(1) of the Finance Act 2008” substitute “ under section 354(1) of TIOPA 2010 ”.
- 165 In section 212(1)(b) (annual deemed disposal of unit trusts etc) for “section 40A of the Finance Act 2008” substitute “ section 355 of TIOPA 2010 ”.
- 166 In Schedule 7AD (gains of insurance company from venture capital investment partnership) in paragraph 7(1) for “made under section 41(1) of the Finance Act 2008” substitute “ under section 354(1) of TIOPA 2010 ”.

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*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

167 ITTOIA 2005 is amended as follows.

168 In section 378A(7) (offshore fund distributions) for “section 40A of FA 2008” substitute “ section 354 of TIOPA 2010 (see sections 355 to 363 of that Act) ”.

*Finance Act 2008 (c. 9)*

169 FA 2008 is amended as follows.

170 Omit sections 40A to 42A (offshore funds).

*Corporation Tax Act 2009 (c. 4)*

171 CTA 2009 is amended as follows.

172 In section 489 (meaning of “offshore fund etc”)—

(a) for “Sections 40A to 40G of FA 2008” substitute “ Sections 355 to 363 of TIOPA 2010 ”, and

(b) for “sections 40A to 42A” substitute “ Part 8 ”.

*Finance Act 2009 (c. 10)*

173 FA 2009 is amended as follows.

174 Omit paragraph 6 of Schedule 22 (restriction on regulation-making power under section 41 of FA 2008).

**PART 6**

OIL ACTIVITIES

*Finance Act 1980 (c. 48)*

175 FA 1980 is amended as follows.

176 In section 107(7) (transmedian fields) for “Chapter V of Part XII of the Taxes Act 1988” substitute “ Chapter 16A of Part 2 of the Income Tax (Trading and Other Income) Act 2005 ”.

*Finance Act 1982 (c. 39)*

177 FA 1982 is amended as follows.

178 In section 134(1) (alternative valuation of ethane used for petrochemical purposes) for “Chapter V of Part XII of the Taxes Act 1988” substitute “ Chapter 16A of Part 2 of the Income Tax (Trading and Other Income) Act 2005 ”.

179 In Schedule 19 (supplementary provisions relating to advance petroleum revenue tax) omit paragraph 10(7).

*Income and Corporation Taxes Act 1988 (c. 1)*

180 ICTA is amended as follows.

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- 181 Omit section 493(1) to (6) (valuation of oil disposed of or appropriated in certain circumstances).
- 182 Omit section 495 (regional development grants).
- 183 Omit section 496 (tariff receipts and tax-exempt tariffing receipts).
- 184 Omit section 502(1) and (2) (interpretation of Chapter 5).

*Finance Act 1991 (c. 31)*

- 185 FA 1991 is amended as follows.
- 186 Omit sections 62 to 65 (abandonment guarantees and abandonment expenditure).

*Finance Act 1999 (c. 16)*

- 187 FA 1999 is amended as follows.
- 188 In section 98(7) (qualifying assets) for paragraphs (b) and (c) substitute—  
“(ba) Chapter 16A of Part 2 of the Income Tax (Trading and Other Income) Act 2005 (oil activities).”

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 189 ITTOIA 2005 is amended as follows.
- 190 In section 16(3) (oil extraction and related activities) for “section 502(1) of ICTA” substitute “sections 225A and 225B”.
- 191 In Part 2 of Schedule 4 (index of defined expressions) at the appropriate places insert—

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“abandonment guarantee (in Chapter 16A of Part 2)	section 225N(6)”
“chargeable period (in Chapter 16A of Part 2)	section 225E”
“contributing participator (in Chapter 16A of Part 2)	section 225R(3)”
“the defaulter (in Chapter 16A of Part 2)	section 225R(3)”
“default payment (in Chapter 16A of Part 2)	section 225R(3)”
“designated area (in Chapter 16A of Part 2)	section 225E”
“the guarantor (in Chapter 16A of Part 2)	section 225N(6)”
“oil (in Chapter 16A of Part 2)	section 225E”
“oil extraction activities (in Chapter 16A of Part 2)	section 225A”
“oil field (in Chapter 16A of Part 2)	section 225E”
“oil rights (in Chapter 16A of Part 2)	section 225B”
“OTA 1975 (in Chapter 16A of Part 2)	section 225E”
“participator (in Chapter 16A of Part 2)	section 225E”
“the relevant participator (in Chapter 16A of Part 2)	section 225N(6)”
“ring fence income (in Chapter 16A of Part 2)	section 225C”

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“ring fence trade (in Chapter 16A of Part 2)

section 225D”

*Income Tax Act 2007 (c. 3)*

192 ITA 2007 is amended as follows.

193 In section 80(3) (ring fence income) for “same meaning as in Chapter 5 of Part 12 of ICTA (see section 502 of that Act)” substitute “ meaning given by sections 225A and 225B of ITTOIA 2005 ”.

**PART 7**

ALTERNATIVE FINANCE ARRANGEMENTS

*Finance Act 1986 (c. 41)*

194 FA 1986 is amended as follows.

195 In section 78(7)(d) (loan capital)—

- (a) for “which fall within section 48A of the Finance Act 2005” substitute “ to which section 564G of the Income Tax Act 2007 ”, and
- (b) after “bonds” insert “ applies ”.

196 In section 79 (loan capital: new provisions)—

- (a) in subsection (6), as it has effect by virtue of subsection (8A)(a) of that section, for “section 48A(1) of the Finance Act 2005”, in both places, substitute “ section 564G(1) of the Income Tax Act 2007 ”, and
- (b) in subsection (8A)(b) for “section 48A of the Finance Act 2005” substitute “ section 564G of the Income Tax Act 2007 ”.

197 In section 99(9A) (interpretation)—

- (a) for “falling within section 48A of the Finance Act 2005” substitute “ to which section 564G of the Income Tax Act 2007 ”, and
- (b) after “bonds” insert “ applies ”.

*Taxation of Chargeable Gains Act 1992 (c. 12)*

198 TCGA 1992 is amended as follows.

199 In section 99(2) (application of Act to unit trust schemes) for “section 99A” substitute “ sections 99A and 151W(a) ”.

200 In section 117 (meaning of “qualifying corporate bond”) for subsection (6D) substitute—

“(6D) Section 151T provides for arrangements to which section 151N (alternative finance arrangements: investment bond arrangements) applies also to be a corporate bond for the purposes of this section.”

201 Omit section 151F (treatment of alternative finance arrangements).

202 In the Table in section 288(8) (interpretation), in the entry for “unit trust scheme” and “unit holder”, for “and 99A” substitute “ , 99A and 151W(a) ”.

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*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

- 203 ITEPA 2003 is amended as follows.
- 204 In section 420(1) (meaning of securities etc) for paragraph (h) and the “and” immediately preceding it substitute “and
- (h) arrangements to which section 564G of ITA 2007 (alternative finance arrangements: investment bond arrangements) applies.”

*Finance Act 2003 (c. 14)*

- 205 FA 2003 is amended as follows.
- 206 In section 71A(8) (alternative property finance: land sold to a financial institution and leased to individual) for “section 46 of the Finance Act 2005” substitute “section 564B of the Income Tax Act 2007”.
- 207 In section 72(7) (alternative property finance in Scotland: land sold to a financial institution and leased to individual) for “section 46 of the Finance Act 2005” substitute “section 564B of the Income Tax Act 2007”.
- 208 In section 72A(8) (alternative property finance in Scotland: land sold to a financial institution and individual in common) for “section 46 of the Finance Act 2005” substitute “section 564B of the Income Tax Act 2007”.
- 209 In section 73(5)(a) (alternative property finance: land sold to a financial institution and resold to individual) for “section 46 of the Finance Act 2005” substitute “section 564B of the Income Tax Act 2007”.
- 210 In section 73C (alternative finance investment bonds) for “falling within section 48A of the Finance Act 2005 (alternative finance investment bonds)” substitute “to which section 564G of the Income Tax Act 2007 or section 151N of the Taxation of Chargeable Gains Act 1992 (investment bond arrangements) applies”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 211 ITTOIA 2005 is amended as follows.
- 212 In Part 2 of Schedule 4 (index of defined expressions) insert at the appropriate place—

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“interest	section 564M of ITA 2007”
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*Finance Act 2005 (c. 7)*

- 213 FA 2005 is amended as follows.
- 214 Omit sections 46 to 47A, 48(1), 48A, 48B(1) to (5) and (9) and 49 to 57 (alternative finance arrangements).
- 215 In Schedule 2 (alternative finance arrangements: further provisions) omit paragraphs 1, 8 and 10 to 13.

*Finance Act 2006 (c. 25)*

- 216 FA 2006 is amended as follows.

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- 217 Omit section 97 (beneficial loans to employees).  
218 Omit section 98 (orders amending Chapter 5 of Part 2 of FA 2005).

*Income Tax Act 2007 (c. 3)*

- 219 ITA 2007 is amended as follows.  
220 In section 2 (overview of Act) after subsection (10) insert—  
“(10A) Part 10A is about alternative finance arrangements.”  
221 In section 383(6) (relief for interest payments)—  
    (a) for “section 51(2) of FA 2005” substitute “ section 564O ”, and  
    (b) for “falling within section 47 of that Act” substitute “ to which section 564C applies ”.  
222 In section 849(4) (interaction with other Income Tax Acts provisions) for the words from the beginning to “make” substitute “ Section 564Q (deduction of income tax at source under this Part) makes ”.  
223 In Schedule 4 (index of expressions defined in that Act) insert at the appropriate place—

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“alternative finance arrangements (in Part 10A)	section 564A(2)”
“alternative finance return (in Part 10A)	sections 564I to 564L”

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*Corporation Tax Act 2009 (c. 4)*

- 224 CTA 2009 is amended as follows.  
225 Omit section 521 (power to extend Chapter 6 of Part 6 of CTA 2009 etc to other arrangements).  
226 Omit section 1310(5) (orders and regulations).

*Finance Act 2009 (c. 10)*

- 227 FA 2009 is amended as follows.  
228 In section 123 (alternative finance investment bonds) for “falling within section 48A of FA 2005 (alternative finance investment bonds)” substitute “ to which section 564G of ITA 2007 or section 151N of TCGA 1992 (investment bond arrangements) applies ”.  
229 (1) Amend Schedule 61 (alternative finance investment bonds) as follows.  
    (2) In paragraph 1(1) (interpretation) in the definition of “alternative finance investment bond” for “within section 48A of FA 2005 (alternative finance investment bond: introduction)” substitute “ to which section 564G of ITA 2007 or section 151N of TCGA 1992 (investment bond arrangements) applies ”.  
    (3) For paragraph 2 (issue, transfer and redemption of rights under bond not to be treated as chargeable transaction) substitute—



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“2 Section 564S of ITA 2007 (treatment of bond-holder and bond-issuer) applies for the purposes of any enactment about stamp duty land tax as it applies for the purposes of the Income Tax Acts.”

(4) In paragraph 4(1) for “section 48B(2) of FA 2005” substitute “ section 564S of ITA 2007 ”.

## PART 8

### LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

#### *Taxation of Chargeable Gains Act 1992 (c. 12)*

230 The Taxation of Chargeable Gains Act 1992 is amended as follows.

231 In section 37 (consideration chargeable to tax on income) at the end of subsection (2) add—

“See also section 37A(4) and (5) (consideration on disposal of certain leases).”

#### *Finance Act 1997 (c. 16)*

232 (1) FA 1997 is amended as follows.

(2) Omit section 82 (finance leases and loans).

(3) In Schedule 12 (leasing arrangements: finance leases and loans) omit paragraphs 1 to 7, 9 to 17 and 20 to 30.

#### *Capital Allowances Act 2001 (c. 2)*

233 The Capital Allowances Act 2001 is amended as follows.

234 In section 60(1)(c) (meaning of “disposal receipt”) for “paragraph 11” to “sum)” substitute “ section 614BS of ITA 2007 ”.

235 In section 420(b) (meaning of “disposal receipt”) for “paragraph 11” to “sum)” substitute “ section 614BS of ITA 2007 ”.

236 In section 476(1)(b) (disposal value of patent rights) for “paragraph 11” to “sum)” substitute “ section 614BS of ITA 2007 ”.

#### *Income Tax Act 2007 (c. 3)*

237 The Income Tax Act 2007 is amended as follows.

238 In section 2 (overview of Act) after subsection (11) insert—

“(11A) Part 11A is about leasing arrangements involving finance leases or loans.”

239 In Schedule 4 (index of defined expressions) at the appropriate places insert—

“accountancy rental earnings (in Part 11A) section 614AB(1)”

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“accountancy rental excess (in Chapter 2 of Part 11A)	section 614BH(1) to (4)”
“accountancy rental excess (in Chapter 3 of Part 11A)	section 614BH(1) to (4), as it has effect as a result of section 614CD”
“asset (in Part 11A)	section 614DG”
“asset representing the leased asset (in Part 11A)	section 614DD”
“cumulative accountancy rental excess (in Chapter 2 of Part 11A)	section 614BH(5)”
“cumulative accountancy rental excess (in Chapter 3 of Part 11A)	section 614BH(5), as it has effect as a result of section 614CD”
“cumulative normal rental excess (in Chapter 2 of Part 11A)	section 614BJ(5)”
“cumulative normal rental excess (in Chapter 3 of Part 11A)	section 614BJ(5), as it has effect as a result of section 614CD”
“the current lessor (in Part 11A)	section 614DG”
“finance lessor (in Part 11A)	section 614DG”
“for accounting purposes (in Part 11A)	section 614DG”
“lease (in Part 11A)	section 614DG”
“the leasing arrangements (in Part 11A)	section 614DG”
“the lessee (in Part 11A)	section 614DG”
“the lessor (in Part 11A)	section 614DG”
“major lump sum (in Part 11A)	section 614BC(5)”
“normal rent (in Part 11A)	section 614AA”
“normal rental excess (in Chapter 2 of Part 11A)	section 614BJ(1) to (4)”
“normal rental excess (in Chapter 3 of Part 11A)	section 614BJ(1) to (4), as it has effect as a result of section 614CD”
“pay (in Part 11A)	section 614DG”
“period of account (in Part 11A)	section 614DB(1) to (3)”
“post-25 November 1996 scheme (in Part 11A)	section 614D(1)(b)”
“pre-26 November 1996 scheme (in Part 11A)	section 614D(1)(a)”
“related period of account (in Part 11A)	section 614DB(5)”
“related tax year (in Part 11A)	section 614DB(4)”
“rent (in Part 11A)	section 614DG”
“the rental earnings (in Part 11A)	section 614AC”
“sum (in Part 11A)	section 614DG”

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## PART 9

### SALE AND LEASE-BACK ETC

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 240 ICTA is amended as follows.
- 241 Omit section 24 (which has come to apply only for the interpretation of section 780 of ICTA).
- 242 Omit sections 779 to 785 (sale and lease-back etc).

#### *Taxation of Chargeable Gains Act 1992 (c. 12)*

- 243 TCGA 1992 is amended as follows.
- 244 In Schedule 8 (leases) in paragraph 9(2) (gain reduced by amount on which income tax charged by reference to a capital sum) for “section 785 of the Taxes Act” substitute “ section 681DM of ITA 2007 ”.

#### *Broadcasting Act 1996 (c. 55)*

- 245 The Broadcasting Act 1996 is amended as follows.
- 246 (1) Amend Schedule 7 (transfer schemes: taxation provisions) as follows.
- (2) In paragraph 22(1) after “reliefs” insert “ , and sections 681AD and 681AE of the Income Tax Act 2007 (which make corresponding provision), ”.
- (3) In paragraph 22(2)—
- (a) before “and” insert “ or section 681AA or 681AB of the Income Tax Act 2007 ”, and
- (b) after the second occurrence of “2010” (which is inserted by CTA 2010) insert “ or section 681AM of the Income Tax Act 2007 ”.
- (4) In paragraph 23(1) after “consideration” insert “ , and Chapter 2 of Part 12A of the Income Tax Act 2007 (which makes corresponding provision), ”.
- (5) In paragraph 23(3) before “and sub-paragraph (2)” insert “ , or section 681BA of the Income Tax Act 2007, ”.
- (6) In paragraph 24(1) after “others” insert “ and Chapter 4 of Part 12A of the Income Tax Act 2007 (which makes corresponding provision), ”.
- (7) In paragraph 24(2) for “leases: special cases” substitute “ lease of trading asset), and section 681CC of the Income Tax Act 2007 (which makes corresponding provision), ”.
- (8) For paragraph 24(3) substitute—
- “(3) In sub-paragraph (1)—
- “lease” has the meaning given by section 884 of the Corporation Tax Act 2010 or section 681DN of the Income Tax Act 2007, and
- “relevant asset” has the meaning given by section 885 of the Corporation Tax Act 2010 or section 681DO of the Income Tax Act 2007.

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(4) In sub-paragraph (2)—

“lease” has the meaning given by section 868 of the Corporation Tax Act 2010 or section 681CF of the Income Tax Act 2007, and  
“relevant asset” has the meaning given by section 869 of the Corporation Tax Act 2010 or section 681CG of the Income Tax Act 2007.”

*Finance Act 1999 (c. 16)*

247 FA 1999 is amended as follows.

248 In section 97(6), in the definition of “lease”, for “sections 781 to 784 of the Taxes Act 1988” substitute “ Chapter 3 of Part 19 of CTA 2010 (see section 868) ”.

*Greater London Authority Act 1999 (c. 29)*

249 The Greater London Authority Act 1999 is amended as follows.

250 (1) Amend paragraph 13 of Schedule 33 (taxation provisions: public-private partnership agreements: sale and leasebacks) as follows.

(2) In sub-paragraph (1) before “shall” insert “ , nor any of sections 681AD, 681AE and 681CC of the Income Tax Act 2007 (which make corresponding provision), ”.

(3) In sub-paragraph (2) for “that Act” substitute “ the Corporation Tax Act 2010 and Chapter 4 of Part 12A of the Income Tax Act 2007 ”.

*Transport Act 2000 (c. 38)*

251 The Transport Act 2000 is amended as follows.

252 In paragraph 15 of Schedule 7 (transfer schemes: tax: leased assets)—

(a) in sub-paragraph (1) before “(assets)” insert “ or Chapter 4 of Part 12A of the Income Tax Act 2007 ”, and

(b) in sub-paragraph (2) for “that Act” substitute “ the Corporation Tax Act 2010 and section 681DI of the Income Tax Act 2007 ”.

*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

253 ITTOIA 2005 is amended as follows.

254 (1) Amend section 49 (car or motor cycle hire: supplementary) as follows.

(2) In subsection (2)(a) omit “(see subsection (3))”.

(3) For subsections (3) to (5) substitute—

“(3) For this purpose “hire-purchase agreement” has the meaning given by section 998A of ITA 2007.”

255 In section 100(4) (meaning of sale and lease-back arrangement) after “as is described in” insert “ section 681AA(1) or (2), 681AB(1) or (2) or 681BA of ITA 2007 or ”.

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*Income Tax Act 2007 (c. 3)*

256 ITA 2007 is amended as follows.

257 In section 2 (overview of Act) after subsection (12) insert—

“(12A) Part 12A is about sale and lease-back etc.”

258 In section 989 at the appropriate place insert—

““hire-purchase agreement” is to be read in accordance with section 998A,”.

259 After section 998 insert—

**“998A Meaning of “hire-purchase agreement”**

(1) This section applies for the purposes of the provisions of the Income Tax Acts which apply this section.

(2) A hire-purchase agreement is an agreement in whose case each of conditions A to C is met.

(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).”

260 (1) Amend section 1016(2) (table of provisions to which section applies) as follows.

(2) In Part 2 of the table at the appropriate place insert—

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“Section 681BB(8) and (9)	New lease after assignment or surrender”
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(3) In Part 2 of the table at the appropriate place insert—

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“Section 681DD	Leased assets: capital sums”
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(4) In Part 3 of the table omit the entry for section 780(3A)(a) of ICTA.

(5) In Part 3 of the table omit the entry for section 781(1) of ICTA.

261 In Schedule 4 (index of defined expressions) at the appropriate places insert—

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“associated (in Chapter 1 of Part 12A)	section 681AM”
“associates (in Chapter 4 of Part 12A)	section 681DL”
“capital sum (in Chapter 4 of Part 12A)	section 681DM”
“deduction by way of relevant income tax relief (in Chapter 1 of Part 12A)	section 681AC(1)”
“deduction by way of relevant income tax relief (in Chapter 2 of Part 12A)	section 681BK”
“deduction by way of relevant tax relief (in Chapter 4 of Part 12A)	section 681DP”
“dispositions of interests in land outside the United Kingdom (in Chapter 1 of Part 12A)	section 681AN”
“interests in land outside the United Kingdom (in Chapter 1 of Part 12A)	section 681AN”
“lease (in Chapter 1 of Part 12A)	section 681AL(2)”
“lease (in Chapter 2 of Part 12A)	section 681BM(2), (3)”
“lease (in Chapter 3 of Part 12A)	section 681CF”
“lease (in Chapter 4 of Part 12A)	section 681DN”
“lessee (in Chapter 2 of Part 12A)	section 681BM(4)”
“lessor (in Chapter 2 of Part 12A)	section 681BM(4)”
“linked (in relation to a person) (in Chapter 2 of Part 12A)	section 681BL”
“relevant asset (in Chapter 3 of Part 12A)	section 681CG”
“relevant asset (in Chapter 4 of Part 12A)	section 681DO”
“relevant deduction from earnings (in Chapter 1 of Part 12A)	section 681AC(2)”
“rent (in Chapter 1 of Part 12A)	section 681AL(3), (4)”
“rent (in Chapter 2 of Part 12A)	section 681BM(5)”
“sum obtained in respect of an interest in an asset (in Chapter 4 of Part 12A)	section 681DG”
“sum obtained in respect of the lessee's interest in a lease of an asset (in Chapter 4 of Part 12A)	section 681DH”.

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*Corporation Tax Act 2009 (c. 4)*

- 262 CTA 2009 is amended as follows.
- 263 In section 97(4) (meaning of sale and lease-back arrangement) after “as is described in” insert “ section 681AA(1) or (2) or 681AB(1) or (2) of ITA 2007 or ”.

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## PART 10

### FACTORING OF INCOME ETC

#### *Income and Corporation Taxes Act 1988 (c. 1)*

- 264 ICTA is amended as follows.
- 265 Omit sections 774A to 774G (factoring of income receipts etc).
- 266 Omit section 786 (transactions associated with loans or credit).

#### *Taxation of Chargeable Gains Act 1992 (c. 12)*

- 267 TCGA 1992 is amended as follows.
- 268 (1) Amend section 263E (structured finance arrangements) as follows.
- (2) In subsection (1)(a) for “section 774B of the Taxes Act” substitute “ section 809BZB or 809BZC of ITA 2007 ”.
- (3) In subsection (6) in the definition of “the borrower” for “section 774A of the Taxes Act” substitute “ the defining section ”.
- (4) In subsection (6) after the definition of “the borrower” insert—
- ““the defining section” in relation to a structured finance arrangement—
- (a) means section 809BZA of ITA 2007 if it is section 809BZB or 809BZC of ITA 2007 that applies in relation to the arrangement, and
- (b) means section 758 of CTA 2010 if it is section 759 or 760 of CTA 2010 that applies in relation to the arrangement.”.
- (5) In subsection (6) in the definition of “the lender” for “that section” substitute “ the defining section ”.
- (6) In subsection (6) in the definition of “security” for “subsection (2)(c) and (d) of that section” substitute “ subsection (2)(b) and (c) of the defining section ”.

#### *Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 269 ITTOIA 2005 is amended as follows.
- 270 After section 281 insert—

#### **“281A Sums to which sections 277 to 281 do not apply**

- (1) This section applies if a grant of a lease constitutes a disposal of an asset for the purposes of section 809BZA(2)(b) or 809BZF(2)(a) of ITA 2007 (disposals under finance arrangements).
- (2) Sections 277 to 281 do not apply in relation to a premium paid in respect of the grant.”

#### *Income Tax Act 2007 (c. 3)*

- 271 ITA 2007 is amended as follows.

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- 272 In section 2(13) (overview of Part 13) omit the “or” after paragraph (e), and after paragraph (f) insert—
- “(g) finance arrangements (Chapter 5B),  
(h) loan or credit transactions (Chapter 5C).”
- 273 For section 809AZE (transfers of income streams: exception for transfer by way of security) substitute—

**“809AZE Exception: transfer by way of security**

- (1) This Chapter does not apply if—
- (a) the consideration for the transfer is the advance under a type 1 finance arrangement, and
- (b) the transferor is, or is a member of a partnership which is, the borrower in relation to the arrangement.
- (2) This Chapter does not apply if—
- (a) the consideration for the transfer is the advance under a type 2 finance arrangement or a type 3 finance arrangement, and
- (b) the transferor is a member of the partnership which receives that advance under the arrangement.
- (3) In this section—
- “type 1 finance arrangement” has the meaning given for the purposes of Chapter 5B by section 809BZA,
- “type 2 finance arrangement” has the meaning given for the purposes of Chapter 5B by section 809BZF, and
- “type 3 finance arrangement” has the meaning given for the purposes of Chapter 5B by section 809BZJ.”

- 274 (1) Amend section 1016(2) (table of provisions to which section applies) as follows.
- (2) In Part 2 of the table at the appropriate place insert—

“Section 809CZC(2)	Income transferred under a loan or credit transaction”
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- (3) In Part 3 of the table omit the entry for section 786(5)(a) of ICTA.

- 275 In Schedule 4 (index of defined expressions) at the appropriate places insert—

“accounts (in Chapter 5B of Part 13)	section 809BZQ”
“arrangements (in Chapter 5B of Part 13)	section 809BZR”
“disposal of an asset (in Chapter 5B of Part 13)	section 809BZS(3)”
“payments in respect of an asset (in Chapter 5B of Part 13)	section 809BZS(4)”
“person involved in a relevant change (in Chapter 5B of Part 13)	section 809BZG(5)”
“person receiving an asset (in Chapter 5B of Part 13)	section 809BZS(2)”



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“relevant change in relation to a partnership (in section 809BZG”  
Chapter 5B of Part 13)

“type 1 finance arrangement (in Chapter 5B of Part section 809BZA”  
13)

“type 2 finance arrangement (in Chapter 5B of Part section 809BZF”  
13)

“type 3 finance arrangement (in Chapter 5B of Part section 809BZJ”  
13)

## PART 11

### UK REPRESENTATIVES OF NON-UK RESIDENTS

#### *Finance Act 1995 (c. 4)*

- 276 FA 1995 is amended as follows.
- 277 Omit section 126 (UK representatives of non-residents).
- 278 Omit section 127 (persons not treated as UK representatives).
- 279 Omit Schedule 23 (obligations etc imposed on UK representatives).

#### *Income Tax Act 2007 (c. 3)*

- 280 ITA 2007 is amended as follows.
- 281 In section 2(14) (overview of Act)—
- (a) omit the “and” immediately after paragraph (b), and
  - (b) after paragraph (b) insert—  
“(ba) rules about UK representatives of non-UK residents (Chapters 2B and 2C).”
- 282 In section 813(2) (meaning of “disregarded income”) for “section 126 of, and Schedule 23 to, FA 1995 (UK representatives of non-UK residents)” substitute “Chapter 2B”.
- 283 (1) Amend section 817 (independent broker conditions) as follows.
- (2) In subsection (3) omit “by the broker”.
  - (3) In subsection (5) for “section 126 of, and Schedule 23 to, FA 1995” substitute “Chapter 2B of this Part, or of Chapter 1 of Part 7A of TCGA 1992, ”.
- 284 In section 824 (application of 20% rule to collective investment schemes) at the end of subsection (2) insert “ (so far as the transaction is one in respect of which such amounts so arise or accrue) ”.
- 285 (1) Amend section 1014(2) (orders and regulations to which section does not apply) as follows.
- (2) Omit paragraph (ba).
  - (3) In paragraph (g)—

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- (a) omit the word “and” at the end of sub-paragraph (iib), and
- (b) after that sub-paragraph insert—
  - “(iic) section 835S(4) (meaning of “investment transaction”), and”.

286 In Schedule 4 (index of defined expressions) at the appropriate places insert—

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“beneficial entitlement (in Chapter 2B of Part 14)	section 835O(4)”
“branch or agency (in Chapter 2B of Part 14)	section 835S(2)”
“independent agent (in Chapter 2C of Part 14)	section 835Y”
“the independent broker conditions (in Chapter 2B of Part 14)	section 835L”
“the independent investment manager conditions (in Chapter 2B of Part 14)	section 835M”
“investment manager (in Chapter 2B of Part 14)	section 835S(3)”
“investment transaction (in Chapter 2B of Part 14)	section 835S(4)”
“qualifying period (in Chapter 2B of Part 14)	section 835O(2)”
“relevant disregarded income (in Chapter 2B of Part 14)	section 835O(3)”

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## PART 12

### AMENDMENTS FOR PURPOSES CONNECTED WITH OTHER TAX LAW REWRITE ACTS

#### *Solicitors (Northern Ireland) Order 1976 (S.I. 1976/582 (N.I. 12))*

287 The Solicitors (Northern Ireland) Order 1976 is amended as follows.

288 In paragraph 38(3) of Schedule 1A for the words from the beginning to “1988” substitute “In sections 748(4), 749 and 771(5) and (6) of the Income Tax Act 2007”.

#### *Administration of Justice Act 1985 (c. 61)*

289 The Administration of Justice Act 1985 is amended as follows.

290 In paragraph 36(3) of Schedule 2 for “749,” substitute “748(4), 749 and”.

#### *Income and Corporation Taxes Act 1988 (c. 1)*

291 ICTA is amended as follows.

292 Omit section 59(3) and (4) (person answerable for tax charged in accordance with section 12 of ITTOIA 2005 on profits of markets or fairs, or on tolls, fisheries or other profits not distrainable).

#### *Broadcasting Act 1996 (c. 55)*

293 The Broadcasting Act 1996 is amended as follows.

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: Taxation (International and Other Provisions) Act 2010 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 294 (1) Amend paragraph 19 of Schedule 7 (no profit or loss by reason of a direct disposal transfer) as follows.
- (2) For the words from the beginning of the paragraph to “accrue to the BBC” substitute “ In determining for the purposes of Part 3 of the Corporation Tax Act 2009 the profits or losses of a trade or part of a trade carried on by the BBC wholly or partly in the United Kingdom, it is to be assumed that no profits or losses arise to the BBC ”.
- (3) In sub-paragraph (a) for “section 100 of the Taxes Act 1988” substitute “ section 163 of the Corporation Tax Act 2009 ”.
- (4) In the italic heading preceding the paragraph for “Case I of Schedule D” substitute “ Part 3 of the Corporation Tax Act 2009 ”.

*Greater London Authority Act 1999 (c. 29)*

- 295 The Greater London Authority Act 1999 is amended as follows.
- 296 In paragraph 7 of Schedule 33 (taxation provisions: revenue nature of payments under public-private partnership agreements)—
- (a) in sub-paragraph (a) for “Case I of Schedule D” substitute “ Part 3 of the Corporation Tax Act 2009 ”, and
- (b) in sub-paragraph (b) for “Case I of Schedule D” substitute “ Part 3 of the Corporation Tax Act 2009 ”.

*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

- 297 ITEPA 2003 is amended as follows.
- 298 In section 211(2) (which refers to section 215, which in turn now refers to section 776(1) of ITTOIA 2005 in place of section 331(1) of ICTA) for “section 331 of ICTA” substitute “ section 776(1) of ITTOIA 2005 ”.
- 299 In section 215 (which now refers to section 776(1) of ITTOIA 2005 in place of section 331(1) of ICTA) in the title for “section 331 of ICTA” substitute “ section 776(1) of ITTOIA 2005 ”.
- 300 In section 331(1) (Part 5 is to be read with section 835(3) and (4) of ICTA) for “section 835(3) and (4) of ICTA” substitute “ section 25(1) to (3) of ITA 2007 ”.

*Finance Act 2004 (c. 12)*

- 301 FA 2004 is amended as follows.
- 302 (1) Amend section 318 (interpretation of Part 7) as follows.
- (2) In subsection (1)—
- (a) after the definition of “arrangements” insert—
- ““company” has the meaning given by section 1121 of the Corporation Tax Act 2010;”, and
- (b) after the definition of “tax” insert—
- ““trade” includes every venture in the nature of trade.”
- (3) Omit subsection (2).

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*Finance Act 2005 (c. 7)*

- 303 FA 2005 is amended as follows.
- 304 Omit section 48B(6) to (8) (alternative finance arrangements: alternative finance investment bonds).
- 305 In Schedule 2 (alternative finance arrangements: further provisions) omit paragraph 9.

*Income Tax Act 2007 (c. 3)*

- 306 ITA 2007 is amended as follows.
- 307 In section 887(4) (industrial and provident society payments) for “section 486(7) of ICTA” substitute “section 500(2) of CTA 2009”.

*Corporation Tax Act 2009 (c. 4)*

- 308 CTA 2009 is amended as follows.
- 309 Before section 1 insert—

**Overview of the Corporation Tax Acts**

- “A1 (1) The main Acts relating to corporation tax are—
- (a) this Act (which covers the ground described in section 1),
  - (b) CTA 2010 (which covers the ground described in section 1 of that Act), and
  - (c) TCGA 1992 (so far as relating to chargeable gains accruing to a company in respect of which the company is chargeable to corporation tax).
- (2) Enactments relating to corporation tax are also contained in other Acts: see in particular—
- (a) Chapter 1 of Part 12 of ICTA (insurance companies),
  - (b) Chapter 4 of Part 17 of that Act (controlled foreign companies),
  - (c) Schedule 18 to FA 1998 (company tax returns, assessments and related matters),
  - (d) Schedule 22 to FA 2000 (tonnage tax),
  - (e) CAA 2001 (allowances for capital expenditure),
  - (f) Part 2 of TIOPA 2010 (double taxation relief),
  - (g) Parts 4 and 5 of that Act (transfer pricing and advance pricing agreements),
  - (h) Part 6 of that Act (tax arbitrage),
  - (i) Part 7 of that Act (tax treatment of financing costs and income), and
  - (j) Part 8 of that Act (offshore funds).
- (3) Schedule 1 to the Interpretation Act 1978 defines “the Corporation Tax Acts” as the enactments relating to the taxation of the income and chargeable gains of companies and of company distributions (including provisions relating to income tax).”

*Status: Point in time view as at 01/01/2016.*

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- 310 In section 39(2) (profits of mines, quarries and other concerns) for “clause” substitute “ section ”.
- 311 In section 1269 (interpretation of sections 1267 and 1268) in the title for “clauses” substitute “ sections ”.
- 312 In paragraph 75 of Schedule 2 (transitional provision and savings: investment bond arrangements) at the end insert—
- “(5) So far as section 519(2) has effect for income tax or capital gains tax purposes in relation to the disposal after 6 April 2007 of investment bond arrangements (whenever entered into), it is treated as always having had effect.”

### PART 13

#### GENERAL

##### *Taxes Management Act 1970 (c. 9)*

- 313 TMA 1970 is amended as follows.
- 314 In section 118(1) after the definition of “the 1992 Act” insert—
- ““TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010;”.

##### *Income and Corporation Taxes Act 1988 (c. 1)*

- 315 ICTA is amended as follows.
- 316 In section 831(3) (interpretation of ICTA) after the definition of “the Management Act” insert—
- ““TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010;”.

##### *Taxation of Chargeable Gains Act 1992 (c. 12)*

- 317 TCGA 1992 is amended as follows.
- 318 (1) Amend section 287 (powers to make orders or regulations under enactments relating to the taxation of chargeable gains) as follows.
- (2) In subsection (1) (powers to be exercisable by statutory instrument) for “subsection (2)” substitute “ subsections (2) and (2A) ”.
- (3) After subsection (2) insert—
- “(2A) Subsection (1) above shall not apply in relation to any power conferred by TIOPA 2010 (see instead section 372 of that Act).”
- 319 In section 288(1) (interpretation) after the definition of “the Taxes Act” insert—
- ““TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010;”.

*Status: Point in time view as at 01/01/2016.*

*Changes to legislation: Taxation (International and Other Provisions) Act 2010 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Finance Act 1998 (c. 36)*

320 FA 1998 is amended as follows.

321 (1) Amend Schedule 18 (company tax returns etc) as follows.

(2) In paragraph 25(1) (scope of enquiries) for the words from “a transfer pricing notice” to “arbitrage)” substitute “ a notice within sub-paragraph (3) ”.

(3) In paragraph 25 after sub-paragraph (2) insert—

“(3) A notice is within this sub-paragraph if it is—

- (a) a notice under section 184G or 184H of the Taxation of Chargeable Gains Act 1992 (avoidance involving capital losses),
- (b) a notice under section 81(2) of TIOPA 2010 (schemes and arrangements designed to increase relief),
- (c) a transfer pricing notice under section 168(1) of TIOPA 2010 (provision not at arm's length: medium-sized enterprise), or
- (d) a notice under section 232 or 249 of TIOPA 2010 (avoidance involving tax arbitrage).”

(4) In paragraph 42(2A) (disapplication of restrictions on power to make discovery assessment or determination) for the words after “return, a notice” substitute “ within sub-paragraph (4). ”

(5) In paragraph 42 after sub-paragraph (3) insert—

“(4) A notice is within this sub-paragraph if it is—

- (a) a notice under section 184G or 184H of the Taxation of Chargeable Gains Act 1992 (avoidance involving capital losses),
- (b) a notice under section 81(2) of TIOPA 2010 (schemes and arrangements designed to increase relief), or
- (c) a notice under section 232 or 249 of TIOPA 2010 (avoidance involving tax arbitrage).”

(6) After paragraph 97 insert—

*“Meaning of TIOPA 2010*

97A In this Schedule “TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010.”

(7) In the list in paragraph 98 after the entry for “tax payable” insert—

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“TIOPA 2010 paragraph 97A”.

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*Income Tax (Earnings and Pensions) Act 2003 (c. 1)*

322 ITEPA 2003 is amended as follows.

323 In Part 1 of Schedule 1 (abbreviations of Acts etc) after the entry for CTA 2010 (which is inserted by CTA 2010) insert—

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“TIOPA 2010 The Taxation (International and Other Provisions) Act 2010”.

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*Status: Point in time view as at 01/01/2016.*

**Changes to legislation:** Taxation (International and Other Provisions) Act 2010 is up to date with all changes known to be in force on or before 04 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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*Income Tax (Trading and Other Income) Act 2005 (c. 5)*

- 324 ITTOIA 2005 is amended as follows.
- 325 In Part 1 of Schedule 4 (abbreviations of Acts) after the entry for CTA 2010 (which is inserted by CTA 2010) insert—

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“TIOPA 2010      The Taxation (International and Other Provisions) Act 2010”

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*Income Tax Act 2007 (c. 3)*

- 326 ITA 2007 is amended as follows.
- 327 In section 1014(2) (orders and regulations under the Income Tax Acts to which the section does not apply) for “and” after paragraph (f) substitute—  
    “(fa) TIOPA 2010 (see instead section 372 of that Act), and”.
- 328 In section 1017 (abbreviated references to Acts) for the “and” at the end of the definition of “TCGA 1992” substitute—  
    ““TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010, and”.

*Corporation Tax Act 2009 (c. 4)*

- 329 CTA 2009 is amended as follows.
- 330 In section 1312 (abbreviated references to Acts) after the definition of “TCGA 1992” insert—  
    ““TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010,”.

*Finance Act 2009 (c. 10)*

- 331 FA 2009 is amended as follows.
- 332 In section 126(1) (abbreviated references to Acts) after the entry for TCGA 1992 insert—  
    ““TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010,”.

*Status: Point in time view as at 01/01/2016.*

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## SCHEDULE 9

Section 377

### TRANSITIONALS AND SAVINGS ETC

#### PART 1

##### GENERAL PROVISIONS

###### *Continuity of the law: general*

- 1 The repeal of provisions and their enactment in a rewritten form by this Act does not affect the continuity of the law.
- 2 Paragraph 1 does not apply to any change made by this Act in the effect of the law.
- 3 Any subordinate legislation or other thing which—
- (a) has been made or done, or has effect as if made or done, under or for the purposes of a superseded enactment so far as it applied for relevant tax purposes, and
  - (b) is in force or effective immediately before the commencement of the corresponding rewritten provision,
- has effect after that commencement as if made or done under or for the purposes of the rewritten provision.
- 4 (1) Any reference (express or implied) in this Act, another enactment or an instrument or document to a rewritten provision is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to the superseded enactment so far as applying for those relevant tax purposes.
- (2) Any reference (express or implied) in this Act, another enactment or an instrument or document to—
- (a) things done under or for the purposes of a rewritten provision, or
  - (b) things falling to be done under or for the purposes of a rewritten provision,
- is to be read as including, in relation to times, circumstances or purposes in relation to which any corresponding superseded enactment had effect for relevant tax purposes, a reference to things done or falling to be done under or for the purposes of the superseded enactment so far as applying for those relevant tax purposes.
- 5 (1) Any reference (express or implied) in any enactment, instrument or document to a superseded enactment in its application for relevant tax purposes is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding rewritten provision has effect, a reference to the rewritten provision.
- (2) Any reference (express or implied) in any enactment, instrument or document to—
- (a) things done under or for the purposes of a superseded enactment in its application for relevant tax purposes, or
  - (b) things falling to be done under or for the purposes of a superseded enactment in its application for relevant tax purposes,
- is to be read, so far as is required for those relevant tax purposes, as including, in relation to times, circumstances or purposes in relation to which any corresponding



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rewritten provision has effect, a reference to things done or falling to be done under or for the purposes of the rewritten provision.

6 Paragraphs 1 to 5 have effect instead of section 17(2) of the Interpretation Act 1978 (but are without prejudice to any other provision of that Act).

7 Paragraphs 4 and 5 apply only so far as the context permits.

#### *General saving for old transitional provisions and savings*

8 (1) The repeal by this Act of a transitional or saving provision relating to the coming into force of a provision rewritten in this Act does not affect the operation of the transitional or saving provision, so far as it is not specifically rewritten in this Act but remains capable of having effect in relation to the corresponding provision of this Act.

(2) The repeal by this Act of an enactment previously repealed subject to savings does not affect the continued operation of those savings.

(3) The repeal by this Act of a saving on the previous repeal of an enactment does not affect the operation of the saving so far as it is not specifically rewritten in this Act but remains capable of having effect.

#### *Interpretation*

9 (1) In this Part—

“enactment” includes subordinate legislation (within the meaning of the Interpretation Act 1978),

“relevant tax purposes” means, in relation to a superseded enactment, tax purposes for which the enactment has been rewritten by this Act, and

“superseded enactment” means an earlier enactment which has been rewritten by this Act for certain tax purposes (whether it applied only for those purposes or for those and other tax purposes).

(2) References in this Part to the repeal of a provision include references to its revocation and to its express or implied disapplication for particular tax purposes.

## **PART 2**

### **CHANGES IN THE LAW**

10 (1) This paragraph applies if, in the case of any person—

(a) a thing is done or an event occurs before 1 April 2010, and

(b) because of a change in the law made by this Act, the corporation tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.

(2) This paragraph also applies if, in the case of any person—

(a) a thing is done or an event occurs before 6 April 2010, and

(b) because of a change in the law made by this Act, the income tax consequences of that thing or event for the relevant period are different from what they would otherwise have been.

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- (3) If the person so elects, this Act applies with such modifications as may be necessary to secure that the consequences for that tax for that period are the same as they would have been if the change in the law had not been made.
- (4) In sub-paragraphs (1) and (2) “the relevant period” means—
  - (a) for corporation tax purposes, any accounting period beginning before and ending on or after 1 April 2010, and
  - (b) for income tax purposes, any period of account beginning before and ending on or after 6 April 2010.
- (5) If this paragraph applies in the case of two or more persons in relation to the same thing or event, an election made under this paragraph by any one of those persons is of no effect unless a corresponding election is made by the other or each of the others.
- (6) An election under this paragraph must be made—
  - (a) for corporation tax purposes, not later than 2 years after the end of the accounting period, and
  - (b) for income tax purposes, on or before the first anniversary of the 31 January following the tax year in which the period of account ends.

### PART 3

#### DOUBLE TAXATION RELIEF

##### *Conversion of references to the profits tax in old arrangements*

- 11 (1) Sub-paragraph (2) applies to any arrangements—
- (a) made in relation to the profits tax (which was abolished by section 46(3) of FA 1965), and
  - (b) specified in an Order in Council made—
    - (i) under section 347 of the Income Tax Act 1952, or
    - (ii) under any earlier enactment corresponding to that section.
- (2) The arrangements have effect—
- (a) in relation to corporation tax as they are expressed to have effect in relation to the profits tax (and not as they had effect in relation to income tax), and
  - (b) in relation to income to which the charge to corporation tax on income applies, and in relation to gains to which the charge to corporation tax on chargeable gains applies, as they are expressed to have effect in relation to profits chargeable to the profits tax,
- but with the substitution of accounting periods for chargeable accounting periods.
- (3) Sub-paragraph (2) applies subject to any contrary provision contained in arrangements—
- (a) made after the passing of FA 1965 (which was passed on 5 August 1965), and
  - (b) specified in an Order in Council made—
    - (i) under section 347 of the Income Tax Act 1952, or
    - (ii) under any later enactment corresponding to that section.
- (4) Sub-paragraph (2) applies despite section 18(5) of this Act.

*Status: Point in time view as at 01/01/2016.*

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*Effect in relation to capital gains tax of arrangements  
given effect before introduction of that tax*

- 12 Any arrangements specified in an Order in Council made under section 347 of the Income Tax Act 1952 before 5 August 1965, so far as they provide (in whatever terms) for relief from tax chargeable in the United Kingdom on capital gains, have effect in relation to capital gains tax.

*Double taxation arrangements to which section 11(3) applies*

- 13 Section 11(3) does not have effect in relation to arrangements made before 21 March 2000.

*Unilateral relief for underlying tax on dividends*

- 14 (1) Condition C in section 15 (credit for underlying tax on dividend paid to sub-10% associate) is not met if the reduction below the 10% limit took place before 1 April 1972.
- (2) Condition C in section 16 (credit for underlying tax on dividend paid by exchanged associate) is not met if the exchange took place before 1 April 1972.

*Time limits for claims for relief*

- 15 (1) If article 10 of the 2009 Order applies—
- (a) section 19(2)(a) (claims for relief under section 18(2) in relation to income tax or capital gains to be made by fourth anniversary of end of tax year) has effect at times before 1 April 2012 as if for “fourth anniversary of the end of” there were substituted “fifth anniversary of the 31 January next following”,
  - (b) section 19(3)(a) (claims for relief under section 18(2) in relation to corporation tax to be made within 4 years) has effect at times before 1 April 2012 as if for “4” there were substituted “6”,
  - (c) section 77(3)(a) (claims for relief under section 73(1) to be made within 4 years) has effect at times before 1 April 2012 as if for “four” there were substituted “6”, and
  - (d) section 43D(5) of TMA 1970 (which is inserted by Part 1 of Schedule 8 and is about claims for relief under sections 2 to 6 in relation to petroleum revenue tax) has effect at times before 1 April 2012 as if for “4 years after the end of” there were substituted “5 years after the 31 January next following”.
- (2) In sub-paragraph (1) “the 2009 Order” means the Finance Act 2008, Schedule 39 (Appointed Day, Transitional Provision and Savings) Order 2009 (S.I. 2009/403).

*Taking account of underlying tax*

- 16 In relation to distributions paid before 1 July 2009, the amount of any income or gain is not to be increased under section 31(2)(b) by so much of any underlying tax within section 31(3)(a) as represents relievably underlying tax, within the meaning of sections 806A to 806J of ICTA, arising in respect of another dividend and treated as underlying tax under those sections.

*Status: Point in time view as at 01/01/2016.*

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*Reduction in credit: payment by reference to foreign tax*

- 17 Section 34 does not have effect in relation to payments made before 22 April 2009.

*Credit against corporation tax on trade income: anti-avoidance*

- 18 Section 45(2) has effect in relation to a credit for foreign tax only if the credit relates to—

- (a) a payment of foreign tax on or after 22 April 2009, or
- (b) income received on or after that date in respect of which foreign tax has been deducted at source.

*Credit against corporation tax on trade income: banks*

- 19 Section 49 has effect in relation to a credit for foreign tax only if the credit relates to—

- (a) a payment of foreign tax on or after 22 April 2009, or
- (b) income received on or after that date in respect of which foreign tax has been deducted at source.

*Meaning of “relevant profits” in section 58*

- 20 In relation to dividends paid before 1 July 2009, section 59 has effect with the following modifications—

- (a) the omission of subsections (2) and (3),
- (b) in subsection (4), the omission of “is not within subsection (3) but”, and
- (c) in subsection (5), the omission of “is not within subsection (3) and”.

*Conditions for relief for underlying tax paid by company lower in dividend-paying chain*

- 21 Section 65(3)(a) applies with the omission of sub-paragraph (ii) if the dividend paid by the second company to the first company is paid before 22 April 2009.

*Application of sections 109 and 110 in relation to pre-1 October 2007 cases*

- 22 (1) Section 109 does not apply in the case of a debtor repo, within the meaning given by section 548 of CTA 2009, if the arrangement mentioned in that section of that Act came into force before 1 October 2007.

- (2) Section 110 does not apply in the case of a stock lending arrangement, within the meaning given by section 263B of TCGA 1992, under which the lender transfers securities to the borrower otherwise than by way of sale before 1 October 2007.

- (3) This Act has effect with the modifications set out in sub-paragraphs (4) and (5), but those modifications—

- (a) do not apply in the case of a debtor repo, within the meaning given by section 548 of CTA 2009, if the arrangement mentioned in that section comes into force on or after 1 October 2007, and
- (b) do not apply in the case of a stock lending arrangement, within the meaning given by section 263B of TCGA 1992, under which the lender transfers securities to the borrower otherwise than by way of sale on or after 1 October 2007.

*Status: Point in time view as at 01/01/2016.*

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(4) In section 108(3) for “section 109 or 110” substitute “ section 109A ”.

(5) For sections 109 and 110 substitute—

**“109A Repo or stock-lending cases in which no disregard under section 108**

- (1) Tax attributable to interest accruing to a company under a loan relationship is within this section if—
  - (a) at the time when the interest accrues, the company has ceased to be a party to the relationship as a result of having made the initial transfer under or in accordance with any repo or stock-lending arrangements relating to the relationship, and
  - (b) that time is in the period for which those arrangements have effect.
- (2) In this section “repo or stock-lending arrangements”, in relation to a loan relationship, means (subject to subsection (3)) any arrangements consisting in or involving an agreement or series of agreements under which provision is made—
  - (a) for the transfer from one person (“A”) to another of any rights under the relationship, and
  - (b) for A subsequently to be or become entitled, or required—
    - (i) to have the same or equivalent rights transferred to A, or
    - (ii) to have rights in respect of benefits accruing in respect of the relationship on redemption.
- (3) Arrangements are not repo or stock-lending arrangements for the purposes of this section if they are excluded from section 730A of ICTA by section 730A(8) of ICTA.
- (4) For the purposes of subsection (2) rights under a loan relationship are equivalent to rights under another loan relationship if they entitle the holder of an asset representing the relationship—
  - (a) to the same rights against the same persons as to capital, interest and dividends, and
  - (b) to the same remedies for the enforcement of those rights,despite any difference in the total nominal amounts of the assets, in the form in which they are held or in the manner in which they can be transferred.
- (5) In this section—
  - (a) “the initial transfer”, in relation to any repo or stock-lending arrangements, is a reference to the transfer mentioned in subsection (2)(a), and
  - (b) a reference to the period for which repo or stock-lending arrangements have effect is a reference to the period from the making of the initial transfer until whichever is the earlier of the following—
    - (i) the discharge of the obligations arising by virtue of the entitlement or requirement mentioned in subsection (2)(b), or
    - (ii) the time when it becomes apparent that the discharge of those obligations will not take place.”

*Status: Point in time view as at 01/01/2016.*

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*Income increased by amounts paid by reference to foreign tax for which deduction allowed*

- 23 Section 112(3) does not have effect in relation to payments made before 22 April 2009.

*Offshore fund treated after 1 December 2009 as distributing fund under repealed Chapter 5 of Part 17 of ICTA*

- 24 In paragraph 5(4)(b) of Schedule 27 to ICTA (offshore funds: distributing funds) as it has effect as a result of paragraph 3 of Schedule 1 to the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), the reference to section 811 of ICTA is to be treated as a reference to section 112 of this Act.

*Limited effect of amendments of sections 806A to 806J of ICTA*

- 25 The amendments in sections 806A to 806J of ICTA that are made by Part 1 of Schedule 8 have effect only in relation to distributions paid before 1 July 2009.

*Interpretative rules saved for the purposes of applying sections 806A to 806K of ICTA to distributions paid before 1 July 2009*

- 26 (1) Despite their repeal by this Act, the saved rules have effect for the purposes of applying sections 806A to 806K of ICTA in relation to distributions paid—
- (a) before 1st July 2009, but
  - (b) in accounting periods ending on or after 1st April 2010.
- (2) In this paragraph “the saved rules” means the following provisions of ICTA—
- (a) section 788(4),
  - (b) in section 788(5), the first two sentences,
  - (c) section 790(12), and
  - (d) section 792.
- (3) The saved rules, so far as having effect as mentioned in sub-paragraph (1), have effect with the following modifications.
- (4) Section 788(4) of ICTA has effect as if for “by virtue of this section” there were substituted “ under section 2(1) of TIOPA 2010 ”.
- (5) In section 788(5) of ICTA the first sentence has effect as if for the words before “any amount of tax” there were substituted “ For the purposes of Chapter 2 of this Part in its application to relief under sections 2 and 6 of TIOPA 2010, but subject to section 31(4) of TIOPA 2010, ”.
- (6) Section 790(12) of ICTA has effect as if for the words from the beginning to “unilateral relief,” there were substituted “ In Chapter 2 of this Part in its application to relief under section 18(1)(b) and (2) of TIOPA 2010, ”.
- (7) Section 792(1) of ICTA has effect as if—
- (a) for “by virtue of section 788” (in both places) there were substituted “ under section 2(1) of TIOPA 2010 ”,
  - (b) for “Chapter 7 of Part 3 of the Finance Act 2004” there were substituted “ Part 3 of TIOPA 2010 ”, and
  - (c) for “section 790” there were substituted “ section 18(1)(b) and (2) of TIOPA 2010 ”.

*Status: Point in time view as at 01/01/2016.*

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(8) Section 792 of ICTA has effect as if after subsection (3) there were (by way of relocation of provisions of section 790(3) of ICTA) inserted—

“(4) Any expression in this Chapter which imports a reference to relief under arrangements for the time being having effect under section 2(1) of TIOPA 2010 shall be deemed to import also a reference to unilateral relief.”

*Repealed references to Part 18 of ICTA saved for purposes of sections 806A to 806K of ICTA*

27 (1) Sub-paragraph (2) has effect for the purposes of applying sections 806A to 806K of ICTA in relation to distributions paid—

- (a) before 1st July 2009, but
- (b) in accounting periods ending on or after 1st April 2010.

(2) The reference to Part 2 of this Act contained in each of the provisions mentioned in sub-paragraph (3) is to be treated as including a reference to Part 18 of ICTA.

(3) The provisions are—

- (a) paragraph 4(2) of Schedule 26 to ICTA (controlled foreign companies: dividends), and
- (b) sections 140H(3), 140I(3) and 140J(3) of TCGA 1992 (foreign tax not charged as a result of Mergers Directive to be treated as charged).

#### PART 4

##### TRANSFER PRICING

*Transfer pricing: meaning of potential advantage*

28 Section 155(6)(b) does not have effect in relation to distributions paid before 1 July 2009.

#### PART 5

##### ADVANCE PRICING AGREEMENTS

29 (1) An agreement made before 27 July 1999 cannot have effect as an advance pricing agreement for the purposes of Part 5.

(2) Section 218(1)(c) (agreement must contain declaration that it is made for the purposes of section 218) applies in relation to an agreement made before 1 April 2010 as if after “this section” there were inserted “ or a declaration that it is made for the purposes of section 85 of FA 1999 ”.

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## PART 6

### TAX AVOIDANCE (ARBITRAGE)

*Arbitrage: contributions to capital of UK resident companies before 16 March 2005*

- 30 Sections 249 to 254 (tax arbitrage: receipt notices) do not apply in relation to any contribution to the capital of a UK resident company made before 16 March 2005.

## PART 7

### TAX TREATMENT OF FINANCING COSTS AND INCOME

*Periods of account in relation to which Part 7 does not have effect*

- 31 (1) Part 7 of this Act does not have effect in relation to periods of account of the worldwide group that begin before 1 January 2010 (but see also sub-paragraphs (2) and (3)).
- (2) Sub-paragraph (3) applies in relation to a period of account of the worldwide group (“the relevant period of account”) if—
- (a) the ultimate parent of the group changes the date to which financial statements of the group are drawn up,
  - (b) as a result of the change, the relevant period of account—
    - (i) begins before 1 January 2010, and
    - (ii) includes a period that would, if the change had not been made, have fallen within a period of account beginning on or after that date, and
  - (c) the main purpose, or one of the main purposes, of the ultimate parent of the group in making the change is to secure that the first period of account in relation to which Part 7 has effect does not include any period falling within the relevant period of account.
- (3) The relevant period of account is treated for the purposes of sub-paragraph (1) as not beginning before 1 January 2010.

*Exclusion of certain debits and credits*

- 32 (1) An amount that would, apart from this paragraph, meet condition A, B or C in section 313 (definition of “financing expense amount”) does not meet that condition if it is a debit that, but for a relevant enactment, would be brought into account for corporation tax purposes in an accounting period beginning before 1 January 2010.
- (2) For this purpose the following are “relevant enactments”—
- (a) section 373 of CTA 2009 (late interest treated as not accruing until paid in some cases),
  - (b) section 407 of that Act (postponement until redemption of debits for connected companies' deeply discounted securities),
  - (c) section 409 of that Act (postponement until redemption of debits for close companies' deeply discounted securities), and



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- (d) regulation 3A of the Loan Relationships and Derivative Contracts (Change of Accounting Practice) Regulations 2004 (S.I. 2004/3271) (prescribed debits and credits brought into account over prescribed period).
- (3) An amount that would, apart from this paragraph, meet condition A, B <sup>F6</sup>, C or D] in section 314 (definition of “financing income amount”) does not meet that condition if it is a credit that, but for the regulation mentioned in sub-paragraph (2)(d), would be brought into account for corporation tax purposes in an accounting period beginning before 1 January 2010.

#### Textual Amendments

- F6** Words in Sch. 9 para. 32(3) substituted (retrospectively) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), [Sch. 5 paras. 34, 36\(1\)](#)

## PART 8

### OFFSHORE FUNDS

#### *Restriction on regulation-making power under section 354*

- 33 (1) Regulations under section 354 may not make provision about the treatment of a person in respect of any rights in an affected offshore fund that are acquired by the person—
- (a) before 1 December 2009, or
  - (b) in accordance with sub-paragraph (3).
- (2) Sub-paragraph (1) is subject to paragraph 34.
- (3) Rights are acquired by a person in accordance with this sub-paragraph if—
- (a) the rights are acquired by the person in accordance with a legally enforceable agreement in writing that was entered into by the person before 30 April 2009,
  - (b) in the case of a conditional agreement, the conditions are satisfied before that date, and
  - (c) the agreement is not varied on or after that date.
- (4) For the purposes of this paragraph rights of a person in a fund are rights in an affected offshore fund if—
- (a) the fund is an offshore fund within the meaning of section 354, but
  - (b) on the date on which the person acquired them, the fund was not an offshore fund within the meaning of Chapter 5 of Part 17 of ICTA.
- 34 Paragraph 33 does not prevent regulations under section 354 making—
- (a) provision for a person to elect to be treated in accordance with the regulations in respect of rights referred to in that paragraph, or
  - (b) provision that does not increase the person's liability to tax in respect of such rights.

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## PART 9

### OIL ACTIVITIES

#### *Regional development grants*

- 35 In relation to periods of account (within the meaning given by section 6 of CAA 2001) beginning before 6 April 2011—
- (a) section 225K(3)(b) of ITTOIA 2005 has effect as if—
    - (i) “ , 3 ” were inserted after “Part 2”, and
    - (ii) “ , industrial buildings ” were inserted after “machinery”, and
  - (b) section 225L(3) and (7) of that Act have effect as if “ , 3 ” were inserted after “Part 2”.

#### *Reimbursement by defaulter in respect of certain abandonment expenditure*

- 36 (1) If article 10 of the 2009 Order applies, section 225T(5) of ITTOIA 2005 has effect at times before 1 April 2012 as if for “4” there were substituted “ 6 ”.
- (2) In sub-paragraph (1) “the 2009 Order” means the Finance Act 2008, Schedule 39 (Appointed Day, Transitional Provision and Savings) Order 2009 (S.I. 2009/403).

## PART 10

### ALTERNATIVE FINANCE ARRANGEMENTS

#### *Alternative finance arrangements entered into before certain dates etc*

- 37 (1) The alternative finance provisions do not apply to purchase and resale arrangements entered into before 6 April 2005 or diminishing shared ownership arrangements entered into before the relevant date.
- (2) If deposit arrangements, profit share agency arrangements or investment bond arrangements were entered into before the relevant date, the alternative finance provisions only apply if alternative finance return is payable under the arrangements on or after the relevant date and then—
- (a) apply for the purposes of income tax in relation to payments of alternative finance return under the arrangements to a person other than a company on or after the relevant date (so far as relevant to the tax year 2010-11 and subsequent tax years), and
  - (b) if a company is a party to the arrangements, apply in relation to the company in respect of the arrangements with effect from the relevant date (so far as relevant to those tax years or, as the case may be, any accounting period ending on or after 1 April 2010).
- (3) Sub-paragraph (2) is subject to sub-paragraph (4).
- (4) For the purposes of income tax and capital gains tax in relation to the disposal after 6 April 2007 of investment bond arrangements (whenever entered into), the relevant provisions are treated as always having had effect.

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- (5) An order made under section 1005 of ITA 2007 (recognised stock exchanges: designation) that includes such provision as is mentioned in section 1005(2A) may be expressed as respects that provision—
- (a) to have had effect as from 1 April 2007 for the purposes of arrangements entered into on or after that date, and
  - (b) for the purposes mentioned in sub-paragraph (4) as always having had effect.
- (6) In this paragraph—
- “alternative finance provisions” means—
- (a) section 367A of ICTA 1988,
  - (b) Chapter 4 of Part 4 of TCGA 1992, and
  - (c) Part 10A and section 1005(2A) of ITA 2007,
- “alternative finance return” has the same meaning as in Chapter 4 of Part 4 of TCGA 1992 (see section 151S of that Act) or Chapter 10A of ITA 2007 (see section 564L of that Act),
- “deposit arrangements”, “diminishing shared ownership arrangements”, “investment bond arrangements”, “profit share agency arrangements” and “purchase and resale arrangements” have the same meaning as in Chapter 4 of Part 4 of TCGA 1992 (see section 151H(3) of that Act) or Chapter 10A of ITA 2007 (see section 564A(3) of that Act),
- “the relevant date” means—
- (a) in the case of deposit arrangements, 6 April 2005,
  - (b) in the case of diminishing shared ownership arrangements or profit share agency arrangements, for income tax purposes 6 April 2006, and
  - (c) in the case of investment bond arrangements, for corporation tax purposes 1 April 2007 and for income tax and capital gains tax purposes 6 April 2007, and
- “the relevant provisions” means—
- (a) for income tax purposes, sections 564G, 564L(3) to (5), and 564S to 564U of ITA 2007 and section 1005(2A) of that Act so far as it relates to section 564G of that Act, and
  - (b) for capital gains tax purposes, sections 151N, 151S(3) and (4) and 151T to 151W of TCGA 1992 and section 1005(2A) of ITA 2007 so far as it relates to section 151N of TCGA 1992.

*Alternative finance arrangements not offshore funds*

- 38 So far as Chapter 5 of Part 17 of ICTA continues to apply for any purpose, references to section 354 of this Act in section 151W(b) of TCGA 1992, section 564U(b) of ITA 2007 and section 519(4)(b) of CTA 2009 are to be read for that purpose as references to that Chapter.

*Alternative finance arrangements entered into before 15 October 2009*

- 39 (1) In relation to arrangements entered into before 15 October 2009, Part 10A of ITA 2007 (alternative finance arrangements) applies with the following modifications.
- (2) In section 564B(1) (meaning of “financial institution”)—

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- (a) in paragraph (e) for “, diminishing shared ownership arrangements or profit share agency arrangements” substitute “ or diminishing shared ownership arrangements ”,
  - (b) at the end of that paragraph insert “ or ”,
  - (c) omit paragraph (g) and “or” at the end of that paragraph, and
  - (d) omit paragraph (h).
- (3) In section 564F(1) (profit share agency arrangements)—
- (a) in paragraph (a) for “an agent” substitute “ a financial institution as agent ”, and
  - (b) omit paragraph (b).
- 40 (1) In relation to arrangements entered into before 15 October 2009, Chapter 4 of Part 4 of TCGA 1992 (alternative finance arrangements) applies with the following modifications.
- (2) In section 151I(1) (meaning of “financial institution”)—
- (a) in paragraph (e) for “, diminishing shared ownership arrangements or profit share agency arrangements” substitute “ or diminishing shared ownership arrangements ”,
  - (b) at the end of that paragraph insert “ or ”,
  - (c) omit paragraph (g) and “or” at the end of that paragraph, and
  - (d) omit paragraph (h).
- (3) In section 151M(1) (profit share agency arrangements)—
- (a) in paragraph (a) for “an agent” substitute “ a financial institution as agent ”, and
  - (b) omit paragraph (b).

## PART 11

### SALE AND LEASE-BACK ETC

*New lease of land after assignment or surrender: right to new lease existed pre-22 June 1971*

- 41 (1) Sub-paragraphs (2) and (3) apply if—
- (a) each of conditions A to D in section 681BA of ITA 2007, or each of conditions A to D in section 850 of CTA 2010, is met (new lease granted to, or to person linked with, lessee under assigned or surrendered lease),
  - (b) condition E in that section is not met (condition that no right to new lease existed before 22 June 1971), and
  - (c) the rent under the new lease is payable by a person within the charge to income tax.
- (2) No part of the rent paid under the new lease is to be treated as a payment of capital.
- (3) The provisions of ITTOIA 2005 providing for deductions or allowances by way of income tax relief in respect of payments of rent apply in relation to the rent under the new lease.
- (4) Section 681BM of ITA 2007 (meaning of “rent” etc) applies for the purposes of this paragraph.

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## PART 12

### FACTORING OF INCOME ETC

#### *Application of Chapter 5B of Part 13 of ITA 2007 (finance arrangements) to pre-6 June 2006 arrangements*

- 42 Chapter 5B of Part 13 of ITA 2007 (which is inserted by Schedule 5 to this Act) has no effect in relation to an arrangement made before 6 June 2006 so far as section 43B or 43D of ICTA applies to the arrangement (sections 43B and 43D of ICTA contain provision about rent factoring: their repeal by paragraph 1 of Schedule 6 to FA 2006 does not apply in relation to pre-6 June 2006 transactions).

#### *Application of section 809BZN of ITA 2007 (finance arrangements: exceptions)*

- 43 (1) In relation to a transfer before 22 April 2009, section 809BZN of ITA 2007 (which is inserted by Schedule 5 to this Act) has effect as if after subsection (1) there were inserted—
- “(1A) For the purposes of subsection (1) the effect of section 785A of ICTA (rent factoring of leases of plant or machinery) is to be disregarded.”
- (2) If the arrangement mentioned in section 809BZN of ITA 2007 came into force before 1 October 2007, subsection (5)(b) of that section applies as if for “Schedule 13 to FA 2007 or Chapter 10 of Part 6 of CTA 2009” there were substituted “ paragraph 15 of Schedule 9 to FA 1996 ”.
- (3) Paragraph 14(6) of Schedule 13 to FA 2007 (when an arrangement is in force) applies for the purposes of sub-paragraph (2) of this paragraph as for those of that Schedule.
- (4) In the case of plant or machinery which is the subject of a sale and finance leaseback (as defined in section 221 of CAA 2001) where the date of the transaction (within the meaning of that section) is before 9 October 2007, section 809BZN(8) of ITA 2007 has effect as if at the end there were inserted “, but in applying that section it is to be assumed that the words “and which are not a long funding lease in the case of the lessor” were omitted from section 219(1)(b) of that Act (meaning of “finance lease”)”.
- (5) In relation to transactions referred to in section 228A(2)(a) of CAA 2001 (as substituted by paragraph 12 of Schedule 20 to FA 2008) and entered into before 9 October 2007, section 809BZN(9) of ITA 2007 has effect as if at the end there were inserted “ with the modifications contained in section 228F of that Act ”.

#### *Application of section 809CZC of ITA 2007 (income-transfer under loan or credit transaction)*

- 44 In relation to a transfer before 22 April 2009, section 809CZC(4) of ITA 2007 (which is inserted by Schedule 5 to this Act) has effect as if—
- (a) after “the person” there were inserted “ assigns, ” and
- (b) after “it” there were inserted “ (without a sale or transfer of the property) ”.

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## PART 13

### MISCELLANEOUS RELOCATIONS

#### *Application of sections 925A to 925F of ITA 2007 (repos)*

- 45 (1) Sections 925A to 925F and 926(1A) of ITA 2007 (which are inserted by Part 19 of Schedule 7 to this Act) do not have effect in relation to an arrangement that comes into force before 1 October 2007.
- (2) Paragraph 14(6) of Schedule 13 to FA 2007 (when an arrangement is in force) applies for the purposes of sub-paragraph (1) of this paragraph as for those of that Schedule.

## SCHEDULE 10

Section 378

### REPEALS AND REVOCATIONS

## PART 1

### DOUBLE TAXATION RELIEF

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Income and Corporation Taxes Act 1988 (c. 1)	Sections 788 to 799. Sections 801 to 801B. Sections 803 to 804E. Sections 804G to 806. Sections 806L to 807G. Sections 808A to 809. Section 811. Sections 815A to 815B. Section 816. In section 828(4), “791”. In Schedule 19ABA, paragraphs 9 to 11. Schedule 28AB.
Finance Act 1990 (c. 29)	In Schedule 7, paragraph 5.
Taxation of Chargeable Gains Act 1992 (c. 12)	Sections 277 and 278.
Finance (No. 2) Act 1992 (c. 48)	Section 50. Section 51(1) and (2). Section 52.
Finance Act 1993 (c. 34)	Section 194.

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	In section 195(3), the words “, other than section 194,”.
Finance Act 1994 (c. 9)	Section 217.
	In Schedule 8, paragraph 12.
Finance Act 1996 (c. 8)	In Schedule 14, paragraphs 41 to 47.
	In Schedule 20, paragraph 39.
	In Schedule 21, paragraphs 22 and 23.
Finance Act 1997 (c. 16)	Sections 90 and 91.
Finance Act 1998 (c. 36)	Section 82(2).
	Sections 106 and 107.
Finance Act 2000 (c. 17)	In Schedule 30, paragraphs 1, 2, 3, 4(1) to (12), 5 to 9, 11, 12, 15 to 17, 18(1), 20, 23 to 25, 27, 28 and 30.
Finance Act 2001 (c. 9)	In Schedule 27, paragraphs 1, 2 and 6.
Finance Act 2002 (c. 23)	In section 88— (a) subsection (1), (b) in subsection (2)(a), the references to sections 788(7)(a), 790(3), (5)(b), (10A)(d) and (10C), 792(1) and (3), 793A(1)(a) and (3), 795A(1)(b) and 815AA(1) of ICTA, and (c) subsection (2)(b), (c) and (f).
	In Schedule 25, paragraphs 54 and 55.
	In Schedule 27, paragraph 12(2) and (3).
	In Schedule 30, paragraph 5.
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In Schedule 6, paragraph 103.
Finance Act 2003 (c. 14)	In section 153— (a) in subsection (1)(a), “790(6A)(b), 801(1A)(b), 804A(1)(a), 806L(1), (2), (4) and (5), 806M(2) to (5) and 815A(6)”, and (b) in subsection (2)(a), “794(2)(bb),”.
	Section 154.
	In Schedule 27, paragraph 1(3).
	In Schedule 33, paragraph 11.
Finance Act 2004 (c. 12)	Sections 107 to 115.
	In Schedule 7, paragraph 7.
Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310)	In the Schedule, paragraph 34.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 321 to 323 and 325.

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Finance Act 2005 (c. 7)	Section 85. Section 86(1) and (2)(a). Section 87. Section 88(3). Section 91(5). In Schedule 4, paragraph 7. Schedule 5.
Commissioners for Revenue and Customs Act 2005 (c. 11)	In Schedule 4, paragraph 37.
Finance (No. 2) Act 2005 (c. 22)	Section 43. Section 59(1).
Finance Act 2006 (c. 25)	Section 176. In Schedule 13, paragraph 24.
Income Tax Act 2007 (c. 3)	In section 26(1)(b)— (a) the entries for sections 788 and 790 of ICTA, and (b) the word “and” before the entry for sections 677 and 678 of ITTOIA 2005.  In section 32— (a) the entry for section 804(5B)(a) of ICTA, and (b) the word “and” before the entry for section 682(4) of ITTOIA 2005.  Section 527(2)(b).  In section 1026, paragraph (g) and the “or” preceding it. In Schedule 1, paragraphs 192 to 196, 197(2), 198(2), (3), (4)(a) and (5) to (7), 199, 200(a) and 202(a).
Finance Act 2007 (c. 11)	Section 35. In Schedule 7, paragraphs 48 to 53. In Schedule 14, paragraph 10.
Income Tax Act 2007 (Amendment) (No. 3) Order 2007 (S.I. 2007/3506)	Article 3(5).
Finance Act 2008 (c. 9)	Section 57. Section 59. In Schedule 17, in paragraph 10(3), paragraph (e) and the “and” preceding it. In Schedule 39, paragraphs 24 and 26.
Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56)	In Schedule 1, paragraph 422(3).



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Corporation Tax Act 2009 (c. 4)	In section 906(3), the word “and” after paragraph (a). In Schedule 1, paragraphs 245, 246, 247(2), (3)(a) and (4) to (8), 248 to 251, 255 to 264 and 282(2) and (3).
Finance Act 2009 (c. 10)	Sections 57, 59 and 60. In Schedule 14, paragraph 8.
Income Tax Act 2007 (Amendment) (No. 2) Order 2009 (S.I. 2009/2859)	Article 4(6).

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## PART 2

### TRANSFER PRICING AND ADVANCE PRICING AGREEMENTS

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<i>Reference</i>	<i>Extent of repeal or revocation</i>
Taxes Management Act 1970 (c. 9)	In the second column of the Table in section 98, the entry for section 86(4) of FA 1999.
Income and Corporation Taxes Act 1988 (c. 1)	Section 770A. Schedule 28AA.
Finance Act 1998 (c. 36)	Section 108(1) and (2). Sections 110 and 111. Schedule 16.
Finance Act 1999 (c. 16)	Sections 85 to 87.
Capital Allowances Act 2001 (c. 2)	In Schedule 2, paragraph 68.
Finance Act 2001 (c. 9)	In Schedule 29, paragraphs 35 and 38(1) to (3).
Finance Act 2002 (c. 23)	In Schedule 23, paragraph 21. In Schedule 27, paragraph 15.
Finance Act 2004 (c. 12)	Sections 30 to 32. Section 34(2) and (3). Sections 35 and 36. In Schedule 5, paragraphs 11 to 13.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 351 and 508.
Finance (No. 2) Act 2005 (c. 22)	In Schedule 8, paragraph 1.
Finance Act 2006 (c. 25)	In Schedule 13, paragraph 26.
Income Tax Act 2007 (c. 3)	In Schedule 1, paragraph 239.
Income Tax Act 2007 (Amendment) (No. 3) Order 2007 (S.I. 2007/3506)	Article 2(4).

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Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56)	In Schedule 1, paragraphs 162(2) and (4) and 252.
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraph 291(2) to (4), (5)(b), (6) and (8).
Finance Act 2009 (c. 10)	In Schedule 14, paragraph 14. In Schedule 15, paragraph 96.

### PART 3

#### TAX ARBITRAGE

<i>Reference</i>	<i>Extent of repeal</i>
Finance (No. 2) Act 2005 (c. 22)	Sections 24 to 31 and Schedule 3.
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraphs 670 and 671.
Finance Act 2009 (c. 10)	In Schedule 24, paragraph 6.

### PART 4

#### TAX TREATMENT OF FINANCING COSTS AND INCOME

<i>Reference</i>	<i>Extent of repeal</i>
Taxes Management Act 1970 (c. 9)	In the first column of the Table in section 98, the entry for regulations under Schedule 15 to FA 2009.
Finance Act 2009	Section 35. In Schedule 15, paragraphs 1 to 95 and 97 to 99.

### PART 5

#### OFFSHORE FUNDS

<i>Reference</i>	<i>Extent of repeal</i>
Finance Act 2008 (c. 9)	Sections 40A to 42A.
Finance Act 2009	In section 44, the words from “Part 1” to “funds), and”. In Schedule 22, Part 1.

*Status: Point in time view as at 01/01/2016.*

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## PART 6

### OIL ACTIVITIES

<i>Reference</i>	<i>Extent of repeal</i>
Finance Act 1982 (c. 39)	In Schedule 19, paragraph 10(7).
Income and Corporation Taxes Act 1988 (c. 1)	Section 493(1) to (6). Sections 495 and 496. Section 502(1) and (2).
Finance Act 1990 (c. 29)	Section 62(3).
Finance Act 1991 (c. 31)	Sections 62 to 65.
Finance (No. 2) Act 1992 (c. 48)	Section 55.
Petroleum Act 1998 (c. 17)	In Schedule 4, paragraph 25.
Finance Act 1998 (c. 36)	Section 152(3).
Capital Allowances Act 2001 (c. 2)	In Schedule 2, paragraphs 42 and 73.
Finance Act 2004 (c. 12)	Section 285(7). In Schedule 37, paragraphs 10 and 11.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 192 to 194.
Finance Act 2006 (c. 25)	Section 151. In Schedule 18, paragraph 12(3)(b) and (7).
Finance Act 2008 (c. 9)	Section 104. In Schedule 27, paragraph 21. In Schedule 39, paragraph 27.
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraph 356.

## PART 7

### ALTERNATIVE FINANCE ARRANGEMENTS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Taxation of Chargeable Gains Act 1992 (c. 12)	Section 151F.
Finance Act 2005 (c. 7)	Sections 46 to 47A, 48(1), 48A, 48B(1) to (5) and (9) and 49 to 57. In Schedule 2, paragraphs 1, 8 and 10 to 13.
Finance Act 2006	Section 95(1) to (8) and (11). Sections 96 to 98.

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Income Tax Act 2007 (c. 3)	In Schedule 1, paragraphs 597 to 599.
Finance Act 2007 (c. 11)	Section 53(1) to (10), (13) and (14). Section 54.
Employment Income (Meaning of Securities) Order 2007 (S.I. 2007/2130)	The whole Order.
Finance Act 2008	Section 156.
Alternative Finance Arrangements (Community Investment Tax Relief) Order 2008 (S.I. 2008/1821)	The whole Order.
Corporation Tax Act 2009	Section 521. Section 1310(5). In Schedule 1, paragraphs 649 to 661 and 683.
Finance Act 2009 (c. 10)	In Schedule 61, paragraph 27.

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## PART 8

### LEASING ARRANGEMENTS: FINANCE LEASES AND LOANS

<i>Reference</i>	<i>Extent of repeal</i>
Finance Act 1997 (c. 16)	Section 82. In Schedule 12, paragraphs 1 to 7, 9 to 17 and 20 to 30.
Finance Act 1998 (c. 36)	In Schedule 7, paragraph 12.
Capital Allowances Act 2001 (c. 2)	In Schedule 2, paragraph 98.
Finance Act 2002 (c. 23)	Section 103(4)(e).
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraph 494.
Finance Act 2006 (c. 25)	In Schedule 9, paragraph 7.
Finance Act 2008 (c. 9)	In Schedule 2, paragraph 69(3).
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraphs 447 and 448.

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## PART 9

### SALE AND LEASE-BACK ETC

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Income and Corporation Taxes Act 1988 (c. 1)	Section 24. Sections 779 to 785.
Finance Act 1996 (c. 8)	In Schedule 21, paragraph 21.

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Finance Act 1998	In Schedule 7, in paragraph 1, the entries for provisions of sections 779, 780, 781, 782 and 785 of ICTA.
Capital Allowances Act 2001	In Schedule 2, paragraph 57.
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In Schedule 6, paragraphs 101 and 102.
Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310)	In the Schedule, paragraphs 32 and 33.
Income Tax (Trading and Other Income) Act 2005	In section 49(2)(a), the words “(see subsection (3))”.
	In Schedule 1, paragraphs 314 to 319.
Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229)	Regulation 98.
Finance Act 2006	In Schedule 9, paragraph 3.
Income Tax Act 2007 (c. 3)	In section 1016(2), in Part 3 of the table, the entries for sections 780(3A)(a) and 781(1) of ICTA.
	In Schedule 1, paragraphs 187 to 190.
Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56)	In Schedule 1, paragraph 156(2).
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraphs 13(2)(a), 232(2) and (3)(b) and (d), 233, 234(3) and (4)(a) and (c) and 236.

## PART 10

### FACTORING OF INCOME ETC

<i>Reference</i>	<i>Extent of repeal</i>
Income and Corporation Taxes Act 1988 (c. 1)	Sections 774A to 774G. Section 786.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraph 320.
Finance Act 2006 (c. 25)	In Schedule 6, paragraphs 6 and 8.
Income Tax Act 2007 (c. 3)	In section 2(13)(e), the word “or” at the end. In section 1016(2), in Part 3 of the table, the entry for section 786(5)(a) of ICTA.
Finance Act 2007 (c. 11)	In Schedule 5, paragraphs 3 to 7 and 17(4). In Schedule 14, paragraph 9.
Corporation Tax Act 2009	In Schedule 1, paragraphs 226 to 229 and 241.

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## PART 11

### UK REPRESENTATIVES OF NON-UK RESIDENTS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Finance Act 1995 (c. 4)	Sections 126 and 127. Schedule 23.
Finance Act 1998 (c. 36)	In Schedule 7, paragraph 10.
Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629)	Article 89.
Finance Act 2003 (c. 14)	In Schedule 27, paragraphs 4 and 5.
Income Tax (Trading and Other Income) Act 2005	In Schedule 1, paragraph 479.
Finance Act 2005 (c. 7)	Section 48(3).
Finance Act 2006	Section 95(10).
Income Tax Act 2007	In section 2(14), the word “and” immediately after paragraph (b). In section 817(3), the words “by the broker”. In section 1014(2), paragraph (ba) and, in paragraph (g), the word “and” at the end of subparagraph (iib).
Finance Act 2007	In Schedule 1, paragraph 367.
Finance Act 2007	Section 53(11).
Finance Act 2008 (c. 9)	In Schedule 16, paragraphs 1, 2 and 11(1).
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraph 401(a).

## PART 12

### MISCELLANEOUS RELOCATIONS

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Taxes Management Act 1970 (c. 9)	In the first column of the Table in section 98— (a) the entry for paragraph 2 of Schedule 15 to FA 1973, (b) the entry for section 42 of ICTA, and (c) the entry for regulations under section 199 of FA 2003.
Finance Act 1973 (c. 51)	Section 38. Schedule 15.
Finance Act 1974 (c. 30)	Section 24.

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Finance Act 1976 (c. 40)	In Schedule 9, paragraph 5.
Finance Act 1978 (c. 42)	Section 29(3).
Finance Act 1984 (c. 43)	Section 124.
Finance (No. 2) Act 1987 (c. 51)	Section 86(3)(b).
Income and Corporation Taxes Act 1988 (c. 1)	Section 6(5). Section 42. Section 84A. Section 152. Section 337A(2). Section 475. Section 700. Section 787. In Schedule 29, in the Table in paragraph 32, the entries relating to Schedule 15 to FA 1973.
Finance Act 1988 (c. 39)	Sections 130 to 132.
Finance Act 1989 (c. 26)	Section 151. Section 164(5)(b).
Finance Act 1991 (c. 31)	Section 42.
Taxation of Chargeable Gains Act 1992 (c. 12)	In Schedule 10, paragraphs 3 and 16(6).
Finance (No. 2) Act 1992 (c. 48)	Section 66. Schedule 12.
Finance Act 1995 (c. 4)	In Schedule 18, paragraph 6.
Jobseekers Act 1995 (c. 18)	In Schedule 2, paragraph 13.
Finance Act 1996 (c. 8)	In section 200(1)(a), the words “, income tax”. In Schedule 14, paragraph 27. In Schedule 28, in paragraph 3— (a) in sub-paragraph (1), the words from “for subsection (1)” to the end, and (b) sub-paragraph (2). In Schedule 38, paragraph 1.
Petroleum Act 1998 (c. 17)	In Schedule 4, paragraph 5.
Finance Act 1998 (c. 36)	Section 36. Section 118. In Schedule 7— (a) in paragraph 1, the word “84A(2)(a),” and (b) in paragraph 8 the words from “and Schedule 12” to the end.

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	In Schedule 14, paragraphs 6 and 7(3) and, in paragraph 7(5), the words “Except as provided by the preceding provisions of this paragraph,”.
Finance Act 2000 (c. 17)	Section 144.
Capital Allowances Act 2001 (c. 2)	In Schedule 2, paragraph 101.
Finance Act 2002 (c. 23)	Section 107.
Secretaries of State for Education and Skills and for Work and Pensions Order 2002 (S.I. 2002/1397)	In the Schedule, paragraph 6.
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In Schedule 6, paragraphs 11, 23 and 144 to 147.
Finance Act 2003 (c. 14)	Section 199.
Communications Act 2003 (c. 21)	In Schedule 17, paragraph 152.
Finance Act 2004 (c. 12)	In Schedule 12, paragraph 12.
Finance Act 2004, Sections 38 to 40 and 45 and Schedule 6 (Consequential Amendment of Enactments) Order 2004 (S.I. 2004/2310)	In the Schedule, paragraph 4.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 24, 59, 291, 387 and 388. In Schedule 2, paragraph 91.
Finance (No. 2) Act 2005 (c. 22)	Section 61.
Finance Act 2006 (c. 25)	Section 71(2) and (3). In Schedule 13, paragraph 29.
Income Tax Act 2007 (c. 3)	In section 3(2), the word “and” immediately before paragraph (e). In Schedule 1, paragraph 275.
Finance Act 2007 (c. 11)	In Schedule 13, paragraph 13.
Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56)	In Schedule 1, paragraphs 133(3), 135(2) and 164.
Corporation Tax Act 2009 (c. 4)	In Schedule 1, paragraphs 104(3)(a), 160(a), 209(c) and (d), 242(2), 311, 312, 389 and 390.
Finance Act 2009 (c. 10)	Section 111.

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### PART 13

#### REPEALS FOR PURPOSES CONNECTED WITH OTHER TAX LAW REWRITE ACTS

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#### **Reference**

#### **Extent of repeal**

In relation to the repeal in F(No.2)A 1997, see paragraph 171 of Schedule 2 to ITA 2007.

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Income and Corporation Taxes Act 1988 (c. 1)	Section 59(3) and (4).
Finance Act 1988 (c. 39)	In Schedule 3, paragraph 21.
Finance Act 1991 (c. 31)	In Schedule 11, paragraph 2(1) and (3).
Finance Act 1993 (c. 34)	Section 72. Section 107(2)(a). In Schedule 6, paragraph 10.
Finance Act 1994 (c. 9)	In Schedule 19, paragraph 37.
Finance (No. 2) Act 1997 (c. 58)	In Schedule 4, paragraph 21.
Finance Act 1998 (c. 36)	Section 27(1)(b). Section 79(2). Section 119. In Schedule 7— (a) in paragraph 1, the words “109A(2)(d), (4) and (4A),”, the words “117(1), (3)(b) and (4),”, the word “160(1C)(b),”, the word “368(3),”, the word “526(1)(b),” and the words “830(4) in the second place,”, and (b) in paragraph 3, the words “and 112(1)”.
Finance Act 1999 (c. 16)	In Schedule 4, paragraphs 1(2) and 3(3).
Finance Act 2000 (c. 17)	Section 78.
Regulation of Care (Scotland) Act 2001 (asp 8)	In Schedule 3, paragraph 14(d) and (e).
Finance Act 2004 (c. 12)	Section 318(2).
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 35(3)(a) and (4) and 401.
Finance Act 2005 (c. 7)	Section 48B(6) to (8). In Schedule 2, paragraph 9.
Finance (No. 2) Act 2005 (c. 22)	In Schedule 8, paragraphs 2 and 3.

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In relation to the repeal in F(No.2)A 1997, see paragraph 171 of Schedule 2 to ITA 2007.

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## SCHEDULE 11

Section 379

## INDEX OF DEFINED EXPRESSIONS USED IN PARTS 2 TO 8

## PART 1

## DOUBLE TAXATION RELIEF: INDEX OF DEFINED EXPRESSIONS USED IN PARTS 2 AND 3

the arrangements (in Chapter 2 of Part 2)	section 21(1)
chargeable gain (in Part 2 so far as relating to capital gains tax)	section 105
double taxation arrangements (in Part 2)	section 2(4)
double taxation arrangements (in Part 3)	section 136(2)
foreign tax (in Chapter 2 of Part 2)	section 21(1)
[ <sup>F7</sup> insurance company	section 65 of FA 2012 (as applied by section 141(2) of that Act)]
international arrangements (in Part 3)	section 136(3)
[ <sup>F7</sup> long-term business	section 63 of FA 2012 (as applied by section 141(2) of that Act)]
the non-UK territory (in Chapter 2 of Part 2)	section 21(1)
the Savings Directive (in Part 3)	section 136(4)
savings income (in Part 3)	section 136(5)
special withholding tax (in Part 3)	section 136(6)
tax not chargeable directly or by deduction (in Chapter 2 of Part 2)	sections 17(3) and 20(4)
tax payable or chargeable (in Chapter 2 of Part 2)	sections 17(3) and 20(4)
tax payable or paid under the law of a territory outside the United Kingdom (in Chapter 2 of Part 2, except section 29, in its application to relief under unilateral relief arrangements)	section 8(2)
underlying tax (in Chapter 2 of Part 2)	section 21(1)
unilateral relief arrangements (in Part 2)	section 8(1)

**Textual Amendments**

**F7** Words in Sch. 11 Pt. 1 inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 244](#)

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## PART 2

### TRANSFER PRICING: INDEX OF DEFINED EXPRESSIONS USED IN PART 4

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the affected persons (in Part 4)	section 149(1), (2)
the arm's length provision (in Part 4)	section 151
control (of a body corporate or firm) (in Part 4)	section 217
the disadvantaged person (in Chapter 4 of Part 4)	section 174(1)
firm (in Part 4)	section 217(8)
the guarantor company (in Chapter 5 of Part 4)	section 191(5)
the issuing company (in Chapter 5 of Part 4)	section 191(5)
losses (in Part 4)	section 156(1)
medium-sized enterprise (in Chapter 3 of Part 4)	section 172
participation (direct or indirect) in the management, control or capital of another person (in Part 4)	Chapter 2 of Part 4
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the relevant activities (in Part 4)	section 216
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section 182 claim (in Part 4)	section 181(3)
the security (in Chapter 5 of Part 4)	section 191(5)
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transaction, and series of transactions (in Part 4)	section 150
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## PART 3

### ADVANCE PRICING AGREEMENTS: INDEX OF DEFINED EXPRESSIONS USED IN PART 5

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advance pricing agreement (in Part 5)	section 218(1)
the Commissioners (in Part 5)	section 230
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*Status: Point in time view as at 01/01/2016.*

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## PART 4

### TAX ARBITRAGE: INDEX OF DEFINED EXPRESSIONS USED IN PART 6

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company tax return (in Part 6)	section 259(1)
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deduction notice (in Part 6)	section 232(2)
the deduction scheme conditions (in Part 6)	section 232(2)
discovery assessment (in Part 6)	section 259(1)
notice of enquiry (in Part 6)	section 259(1)
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the receipt scheme conditions (in Part 6)	section 249(2)
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## PART 5

### TAX TREATMENT OF FINANCING COSTS AND INCOME: INDEX OF DEFINED EXPRESSIONS USED IN PART 7

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[ <sup>F8</sup> dual resident investing company (in Chapter 3 of Part 7)	section 275A]
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[ <sup>F9</sup> FCA Handbook (in Part 7)	Section 353]
financial instrument (in Chapter 2 of Part 7)	section 270(1)

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financial statements of the worldwide group (in Part 7)	section 346(2)
financing expense amount (in Part 7)	section 313
financing income amount (in Chapter 5 of Part 7 and section 305 section 311)	section 305
financing income amount (in the rest of Part 7)	section 314
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F10	F10
...	...
group (in Part 7)	section 338
[ <sup>F8</sup> group securitisation company (in Chapter 2 of Part 7)	section 273A]
HMRC (in Part 7)	section 353
insurance activities (in Chapter 2 of Part 7)	section 269
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the reporting body (in Chapter 4 of Part 7)	section 289
scheme (in Chapter 6 of Part 7)	section 312(1)
the start date (in Chapter 2 of Part 7)	section 262(8)
subsidiary (in Part 7)	section 351
tax of a territory outside the United Kingdom (in Chapter 5 of Part 7)	section 304(2), (3)
tax of the United Kingdom (in Chapter 5 of Part 7)	section 304(1)
tax-resident (in Chapter 5 of Part 7)	section 301(1)

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tested expense amount (in Part 7)	section 329
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total disallowed amount (in Chapter 3 of Part 7)	section 274(2)
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UK group company (in Part 7)	section 345
[ <sup>F8</sup> UK net debt (in Chapter 2 of Part 7)	section 262]
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[ <sup>F8</sup> worldwide gross debt (in Chapter 2 of Part 7)	section 264]
the worldwide group (in Part 7)	section 337
worldwide trading income (in Chapter 2 of Part 7)	section 266(3)

#### **Textual Amendments**

- F8** Words in Sch. 11 Pt. 5 inserted (retrospectively) by Finance (No. 3) Act 2010 (c. 33), **Sch. 5 paras. 35, 36(1)**
- F9** Sch. 11 Pt. 5 entries inserted (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 13(6)(b)**
- F10** Sch. 11 Pt. 5 entry omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Consequential Amendments) Order 2013 (S.I. 2013/636), art. 1(2), **Sch. para. 13(6)(a)**

## **PART 6**

### OFFSHORE FUNDS: INDEX OF DEFINED EXPRESSIONS USED IN PART 8

participant (in Part 8)	section 362(1)
participation (in Part 8)	section 362(2)
part of umbrella arrangements (in Part 8)	section 363(2)
umbrella arrangements (in Part 8)	section 363(1)

**Status:**

Point in time view as at 01/01/2016.

**Changes to legislation:**

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