

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance Act 2011, Part 5 is up to date with all changes known to be in force on or before 06 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)

SCHEDULES

SCHEDULE 3

TAINTED CHARITY DONATIONS

PART 5

COMMENCEMENT AND TRANSITIONAL PROVISION

Commencement

- 27 (1) Subject to sub-paragraph (2), the amendments made by this Schedule have effect in relation to relievable charity donations made on or after 1 April 2011.
- (2) The repeals made by paragraphs 12 to 14, 16, 18 and 22 to 25 have effect in relation to any transaction, other than an excluded transaction, occurring on or after 1 April 2013.
- (3) A transaction is “excluded” if it is entered into in pursuance of a contract made before 1 April 2013, other than in pursuance of a variation of the contract made on or after that date.

Modifications etc. (not altering text)

- C1** Sch. 3 para. 27 modified (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), **Sch. para. 8**
- C2** Sch. 3 para. 27 modified (1.4.2012) by [The Housing \(Scotland\) Act 2010 \(Consequential Provisions and Modifications\) Order 2012 \(S.I. 2012/700\)](#), art. 1(3), **Sch. para. 9**

Treatment of existing arrangements

- 28 In the amendments made by Parts 1 and 2 of this Schedule, references to arrangements include arrangements made, or made and implemented, before 1 April 2011.

Treatment of substantial donor transactions

- 29 (1) For the purposes of section 549(2) of ITA 2007 (meaning of substantial donor), relievable gifts (within the meaning of section 550 of that Act) received by a charitable trust on or after 1 April 2011 are to be disregarded.
- (2) Sub-paragraphs (3) and (4) apply where—
- (a) a substantial donor transaction is entered into before, or on or after 1 April 2011, and
- (b) that transaction is not tainted.

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- (3) Where a payment made on or after 1 April 2011 by a charitable trust to a substantial donor in the course of, or for the purposes of, the substantial donor transaction would (in the absence of this sub-paragraph) be treated under section 551(1) or (5) of ITA 2007 as non-charitable expenditure, that payment is not to be so treated.
- (4) Where, as a result of the substantial donor transaction, non-charitable expenditure would (in the absence of this sub-paragraph) be treated as incurred under section 551(2) of that Act on or after 1 April 2011, that expenditure is not to be treated as so incurred.
- (5) A substantial donor transaction is “tainted” if (and only if) it is reasonable to assume from—
- (a) the likely effects of the relevant relievable gifts and the substantial donor transaction, and
 - (b) the circumstances in which the relevant relievable gifts were made and the circumstances in which the substantial donor transaction was entered into,
- that the relevant relievable gifts (or one or more of them) would not have been made and the transaction would not have been entered into independently of one another.
- (6) In this section—
- “relevant relievable gifts”, in relation to the substantial donor transaction, means the relievable gifts by reason of which a person is a substantial donor and the transaction is a substantial donor transaction;
- “relievable gift” has the meaning given by section 550 of ITA 2007;
- “substantial donor” and “substantial donor transaction” have the meaning given by section 549 of that Act.
- 30 (1) For the purposes of section 502(2) of CTA 2010 (meaning of substantial donor), relievable gifts (within the meaning of section 503 of that Act) received by a charitable company on or after 1 April 2011 are to be disregarded.
- (2) Sub-paragraphs (3) and (4) apply where—
- (a) a substantial donor transaction is entered into before, or on or after, 1 April 2011, and
 - (b) that transaction is not tainted.
- (3) Where a payment made on or after 1 April 2011 by a charitable company to a substantial donor in the course of, or for the purposes of, the substantial donor transaction would (in the absence of this sub-paragraph) be treated under section 504(1) or (5) of CTA 2010 as non-charitable expenditure, that payment is not to be so treated.
- (4) Where, as a result of the substantial donor transaction, non-charitable expenditure would (in the absence of this sub-paragraph) be treated as incurred under section 504(2) of that Act on or after 1 April 2011, that expenditure is not to be treated as so incurred.
- (5) The substantial donor transaction is “tainted” if (and only if) it is reasonable to assume from—
- (a) the likely effects of the relevant relievable gifts and the substantial donor transaction, and
 - (b) the circumstances in which the relevant relievable gifts were made and the circumstances in which the substantial donor transaction was entered into,

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that the relevant relievable gifts (or one or more of them) would not have been made and the transaction would not have been entered into independently of one another.

(6) In this section—

“relevant relievable gifts”, in relation to the substantial donor transaction, means the relievable gifts by reason of which a person is a substantial donor and the transaction is a substantial donor transaction;

“relievable gift” has the meaning given by section 503 of CTA 2010;

“substantial donor” and “substantial donor transaction” have the meaning given by section 502 of that Act.

Housing (Scotland) Act 2010 (asp 17)

31 Until such time as section 20 of the Housing (Scotland) Act 2010 is brought into force, the references to that section in the following provisions are to be read as references to section 57 of the Housing (Scotland) Act 2001 (asp 10)—

- (a) the definition of “relevant housing provider” in section 809ZJ(8) of ITA 2007;
- (b) the definition of “relevant housing provider” in section 939C(8) of CTA 2010.

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