These notes refer to the Finance Act 2012 (c.14) which received Royal Assent on 17 July 2012

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 28: Deemed Receipts under s.26(4): Double Taxation Relief

Details of the Section

2. Subsection (1) sets out three conditions for this section to apply. Firstly, a receipt must arise to a company as a result of section 26(4) and, secondly, that the company must carry on business through a permanent establishment (PE) outside the United Kingdom for which double taxation relief is due in respect of any income or gain. A third condition relates to the PE concerned and provides that the PE must be one to which double taxation relief regulations applied in respect of apportionment of transfers into an equalisation reserve.

3. Subsection (2) provides that only the appropriate proportion (if any) of the receipt is to be taken into account in calculating the profits or losses on which double taxation relief is calculated.

4. Subsection (3) defines the appropriate proportion of the receipt as being equal to the mean of each proportion found for the relevant period or any other proportion determined on a just and reasonable basis.

5. Subsection (4) defines, other than in cases where a just and reasonable basis has been determined by the company, a proportion for a relevant period as the proportion of the company's premium income constituted by the PE's premium income for the same period.

6. Subsection (5) provides definitions of "the company's premium income", "the PE's premium income" and a "relevant period".

7. Subsection (6) defines "net premiums written" and provides that references to section 444BA of the Income and Corporation Taxes Act of 1988 include that section as modified by regulations made under that Act.