

Status: Point in time view as at 17/07/2012.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, Cross Heading: TIOPA 2010. (See end of Document for details)

SCHEDULES

SCHEDULE 20

CONTROLLED FOREIGN COMPANIES AND FOREIGN PERMANENT ESTABLISHMENTS

PART 3

OTHER AMENDMENTS

TIOPA 2010

- 41 TIOPA 2010 is amended as follows.
- 42 (1) Section 179 (compensating payment if advantaged person is controlled foreign company) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) Subsection (2) applies if—
- (a) the actual provision is provision made or imposed in relation to a CFC,
 - (b) for the purpose of determining the CFC's assumed taxable total profits for an accounting period, the CFC's profits and losses are to be calculated in accordance with section 147(3) or (5) in the case of that provision,
 - (c) in relation to the accounting period, sums are charged on chargeable companies at step 5 in section 371BC(1), and
 - (d) in consequence of the application of section 147(3) or (5) as mentioned in paragraph (b), the total of those sums is more than it would otherwise be.”
- (3) In subsection (2) for “controlled foreign company” substitute “ CFC ”.
- (4) In subsection (3)—
- (a) in paragraph (a) for “companies mentioned in subsection (1)(c)” substitute “ chargeable companies on which a sum is charged ”, and
 - (b) in paragraph (b) for “tax chargeable under section 747(4) of ICTA” substitute “ the CFC charge ”.
- (5) For subsection (4) substitute—
- “(4) In this section terms which are defined in Part 9A have the same meaning as they have in that Part.
- (5) For the purposes of subsections (1)(c) and (d) and (3)(a) assume that any claims made under Chapter 9 of Part 9A for the accounting period were not made.”

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43 In Chapter 4 of Part 7 (exemption for financing income) after section 298 insert—

“298A Application of Chapter to financing income amounts determined under section 314A

- (1) The Commissioners may by regulations amend this Chapter—
 - (a) to enable a financing income amount determined in accordance with section 314A for the relevant period of account (or a proportion of such an amount so determined) to be specified in a statement of allocated exemptions under section 292(4)(b), and
 - (b) to require, where a financing income amount so determined (or a proportion of such an amount so determined) is specified in such a statement, the sum charged on the company as mentioned in section 314A(1)(a) to be re-determined at step 5 in section 371BC(1) on the basis set out in subsection (2) below.
- (2) The basis referred to in subsection (1)(b) is—
 - (a) the relevant finance profits (see section 314A(1)(d)) are to be left out of the CFC's chargeable profits mentioned in paragraph (a) at step 5 in section 371BC(1), and
 - (b) the CFC's creditable tax mentioned in paragraph (b) at that step is to be reduced so far as it is just and reasonable for it to be reduced having regard to the amounts left out of the CFC's chargeable profits.
- (3) For a case where only a proportion (“X%”) of a financing income amount is specified in a statement of allocated exemptions under section 292(4)(b), in subsection (2)(a) the reference to the relevant finance profits is to be read as a reference to X% of those profits.
- (4) The Commissioners may by regulations amend this Chapter to require, where a financing income amount determined in accordance with section 314A for the relevant period of account is reduced under section 296, the sum charged on the company as mentioned in section 314A(1)(a) to be re-determined in accordance with provision made by regulations under subsection (1)(b) as if the proportion of the financing income amount represented by the amount of the reduction were specified in a statement of allocated exemptions under section 292(4)(b).
- (5) The Commissioners may by regulations amend this Part or Part 9A in consequence of provision made by regulations under subsection (1) or (4).”

44 (1) Section 314 (financing income amounts) is amended as follows.

(2) In subsection (1) after “D” insert “ or that is determined in accordance with section 314A ”.

45 After section 314 insert—

“314A The financing income amounts of a chargeable company under Part 9A

- (1) This section applies if—
 - (a) a sum is charged on a company at step 5 in section 371BC(1) (controlled foreign companies: charging the CFC charge),

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- (b) the relevant corporation tax accounting period (as defined in section 371BC(3)) is a relevant accounting period of the company in relation to a period of account of the worldwide group,
 - (c) the CFC's accounting period in relation to which the sum is charged ends in the period of account of the worldwide group, and
 - (d) the CFC's chargeable profits mentioned in paragraph (a) at step 5 in section 371BC(1) include amounts (“the relevant finance profits”) which fall only within Chapter 5 or 6 of Part 9A or which are qualifying loan relationship profits within the meaning of Chapter 9 of Part 9A.
- (2) An amount equal to P% of the relevant finance profits is to be taken to be a financing income amount of the company for the period of account of the worldwide group.
- (3) “P%” has the meaning given by section 371BC(3), subject to sections 371BG(3)(a) and 371BH(3)(b).
- (4) In subsection (1)(d) the reference to amounts which fall within Chapter 5 or 6 of Part 9A or which are qualifying loan relationship profits is limited to amounts—
- (a) which so fall or which are such profits by virtue of section 297 or 299 of CTA 2009 (but not, in the case of section 299, as applied by section 574 of that Act), and
 - (b) which are not excluded credits (as defined in section 314(3) above).”

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